PAPERWORK AND REDTAPE REDUCTION ACT OF 1979

HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

S. 1411

TO IMPROVE THE ECONOMY AND EFFICIENCY OF THE GOVERNMENT AND THE PRIVATE SECTOR BY IMPROVING FEDERAL INFORMATION MANAGEMENT, AND FOR OTHER PURPOSES

NOVEMBER 1, 1979

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PAPERWORK AND REDTAPE REDUCTION ACT OF 1979

THURSDAY, NOVEMBER 1, 1979

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL SPENDING
PRACTICES AND OPEN GOVERNMENT,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 3302, Dirksen Office Building, Hon. Lawton Chiles (chairman of the subcommittee) presiding.

Present: Senators Chiles and Pryor.

OPENING STATEMENT OF SENATOR LAWTON CHILES

Senator CHILES. More than a year ago, this subcommittee held its first hearing on the impact of Federal paperwork burdens. We have held hearings in Washington, D.C., Florida, and Missouri and heard from people from all walks of life about how paperwork affects them.

FRUSTRATING PAPERWORK

We have taken testimony from educators, pharmacists, senior citizens, business counselors, veterinarians, small grocery store operators, State and local government officials and almost every story carries the same thing that Americans are fed up and frustrated with paperwork.

People in Jacksonville do not understand why the Internal Revenue Service cannot write an income tax form that they can fill out. Veterinarians do not understand why they have to fill out a form every time an employee is bitten by a flea or scratched by a cat. The examples go on and on, but hopefully, we are reaching a point this morning where we can begin trying to come to grips with some of the frustrations and anger and often downright intimidation caused by unnecessary paperwork.

PAPERWORK REDUCTION ACT

The bill we are considering, S. 1411, the Federal Paperwork and Redtape Reduction Act will be a start toward stopping unnecessary paperwork and I am hopeful the full Governmental Affairs Committee and the Senate will act on it without undue delay.

The legislation takes a step to consolidate responsibility for a beefed-up reports clearance process in OMB and to create an ac-

countable official who has the responsibility of stopping unnecessary paperwork requirements

We have got to keep in mind that paperwork, in addition to the frustrations it causes, is a tremendous contributor to inflation.

Indeed, the Paperwork Commission has reported paperwork costs of $100 billion each year and that cost certainly is passed on to every citizen and consumer in America in one form or another.

Today, we are going to hear from Senator Bellmon, who was the author of S. 119, the Business Reporting Act, and Senator McIntyre, who was the Cochairman of the Paperwork Commission and now a Trustee of the Citizens Committee on Paperwork Reduction.

Also, Wayne Granquist, Associate Director for Management and Regulatory Policy within the Office of Management and Budget will speak for the administration.

We will also hear from Governor Partee of the Federal Reserve System, Commissioner Evans of the Securities and Exchange Commission and Commissioner Brown of the Federal Communications Commission.

All these gentlemen represent agencies that are either exempt from OMB clearance authority or from any outside clearance authority, whatsoever.

Let me say, the subcommittee welcomes constructive comments from the witnesses this morning and already contemplate making several changes which have been recommended in written comments solicited from the agencies.

[The prepared statement of Senator Chiles follows:]

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Washington, D. C. 202/224-5274

Contact: Dennis Beal

For Release on Delivery
Expected at 10 a.m.,
Thursday, November 1, 1979

Good morning ladies and gentlemen.

More than a year ago, in July of 1978, this Subcommittee held its first hearing on federal paperwork burdens. The Federal Paperwork Commission had recently completed its work. We heard from the Commission's Co-Chairmen, Senator McIntyre and citizen groups on what the priorities and next step in the War against unnecessary federal paperwork should be.

The Paperwork Commission's estimate was that there are a 100 billion dollars worth of federally imposed paperwork costs annually. Every 1% reduction in that figure represents a billion dollars of hidden taxes the taxpayers of this country do not have to pay.

Since that first hearing, the subcommittee has participated in four field hearings concerned with paperwork burdens. We have been to Jacksonville, St. Petersburg, Tallahassee, and St. Louis. People from all walks of life have talked about paperwork in their lives.

I have learned that the impact of government paperwork on the day to day life of people in this country goes beyond the 100 billion dollar cost of hidden taxes.

Several people, including a community veterinarian in Jacksonville, told me they were actually afraid of their own government.

They had been bombarded with government forms, neglected

or wrongly answered some particular form, and were afraid that the "government" was going to "get" them as a result -- a nagging feeling of fear.

A small business counselor told me that many of his clients refuse to expand their businesses just because of the added paperwork they would face. He unwound a stand of taped together forms that stretched across the room just to show me the amount of material any small business person has to know to even think about getting into business.

Two elderly widows read instructions to me from tax forms that neither I nor they could understand.

A pharmacist showed me how it takes some 7 minutes to fill a prescription and get paid if someone walks off the street, but as a medicaid provider to nursing homes he is lucky to get paid in 7 months.

In St. Petersburg I learned that some senior citizens, after a lifetime of paying taxes, quit trying to receive medicare because they can't get the paper through. The burden of form filling has caused doctors on a wide scale to discourage medicare business or make senior citizens pay first, and fill out the forms on their own later.

There are now private "Medicare Assistance Bureaus" which promise older Americans to fill out medicare forms for a yearly payment of 50$ or a percentage of their medicare reimbursement.

A Junior High School teacher told me that a study she participated in Hillsborough County found that it takes 187 hours of 26 extra working days to meet minimum paperwork reguirements

for a classroom teacher. That is class time taken away from the kids or time at home without pay.

In Tallahassee, we heard from state and local officials who focused on unnecessary paperwork and administrative costs associated with grant programs. Orange County grant administrators told me that one CETA application for funding one year for one county generated 5,814 pages and required 46 original signatures from the Chairman of the Board of County Commissioners and Mayor of Orlando.

Repeatedly, state officials indicated that from 10 to 30% of grant funds get tied up in unnecessary paperwork. Nationally, that would mean 8 billion dollars; in Florida some 240 million dollars.

Federal paperwork requirements, whether they be tax forms, medicare forms, financial loans or applications of one kind or another are something each individual in this country touches, feels, and works on. The cumulative impact is excessive. There is a clear feeling among the public that paperwork demands are out of control.

I have been working on a three pronged legislative strategy to get a handle on the paperwork requirements government showers on the citizens of this country. A sunset law is needed, Senate Rule 29.5, which requires paperwork impact statements, needs better enforcement and use, and the Paperwork and Red Tape Reduction Act, S. 1411, needs to be passed.

Clearly, the first priority in following up on the Paperwork Commission's work is for the Congress to discipline itself. As the Commission pointed out, it is the Congress

that passes laws which are often the source of paperwork burdens.

The need is to periodically evaluate the laws on the books now and take steps to avoid future mistakes.

I believe the national government needs sunset legislation to get that periodic re-evaluation of old programs. Congress needs the gun to its head that automatic termination of programs brings about. Congress would then be encouraged to systematically consolidate related programs and cut unneeded regulations.

In order to avoid future mistakes, I have been working with other Senators to see that Rule 29.5 is enforced. That rule insists that committee reports accompanying public bills to the full Senate have regulatory and paperwork impact evaluations or they will not be considered.

The idea is to catch the paperwork costs early in the legislative process where you can eliminate or reduce this burden before it's too late.

After the first hearing on Paperwork, my subcommittee studied the legislative calendar and found that 216 of the 688 bills reported last Congress, a full third, totally ignored the rule.

At the beginning of this Session, I and several other Senators put the whole Senate on notice that we were going to stop any bill that ignored the rule.

So far all 191 bills reported have referred to the rule. Much of the statements are lip service, but progress has been made. There are success stories. The next step will be to encourage committees to improve the quality of their considerations of regulatory and paperwork impacts.

The Paperwork and Red Tape Reduction Act, the legislation we will discuss today, is the third prong to the three part legislative strategy.

The bill takes the statutory steps needed to control and manage paperwork requirements generated by the executive branch of government. S. 1411 builds upon the Federal Reports Act, and the reports clearance authority established by that Act.

Presently, progress towards controlling the growth of paperwork costs is slow because responsibility for checking on whether agency requests duplicate each other, are necessary, and cost efficient is split among four organizations -- the Office of Management and Budget, the General Accounting Office, the Departments of Commerce, and Health, Education, and Welfare.

Second, the Internal Revenue Service and other bank supervisory agencies have always been exempted from any clearance controls. The exemptions amount to 73 per cent of the paperwork burdens on the public.

This legislation consolidates the four authorities into one, the President's management arm, and eliminates all exemptions from central clearing controls.

While OMB is required to supervise the approval or disapproval of agency requests within 60 days, individuals, businesses, and State and local governments will be told they do not need to answer requests not acted upon by OMB.

Forms without an OMB number on them will be "bootleg forms" that the public can ignore.

In addition to placing authority for setting information management policy in the President's central management agency, the bill insures that paperwork reduction controls will be visibly established and implemented by creating a watchdog office in the White House and the agencies headed by a Presidential appointee confirmed by the Senate. The Administrator will be the accountable person for the effective working of government-wide paperwork controls.

The design is to better concentrate presently fragmented resources for paperwork management and place the needed authorities within OMB so that the clout of the budget process can be used to create incentives for agencies to meet paperwork management and reduction goals.

The legislation further establishes a federal Information Locator System to contain descriptions of all information request made by agencies on the public, and to be used to identify duplication in existing reporting requirements, and locate existing data that already meet agency needs.

To reach into the bowels of bureaucracy and change the attitude of agency program officials who collect information, we are going to need leadership and innovation from the President and within the agencies.

I believe this legislation goes a long way towards granting any chief executive the added statutory tools needed to improve upon the reports clearance process and run a paperwork reduction program.

Today, we will hear from Senator Bellmon, who is the author of S. 119, the Business Reporting Act, and Senator McIntyre, who was a co-chairman of the Paperwork Commission and now a trustee of the Citizens Committee on Paperwork Reduction.

Wayne Granquist, Associate Director for Management and Regulatory Policy within the Office of Management and Budget will speak for the Administration.

We will also hear from Governor Partee of the Federal Reserve System, Commissioner Evans of the Securities and Exchange Commission.

All these gentlemen represent agencies who are either exempt from OMB clearance authority or from any outside clearance authority whatsoever.

Let me say, that the Subcommittee welcomes constructive comments from the witnesses this morning and already contemplates making several changes that have been recommended in written comments solicited from the agencies.

Senator CHILES. I am delighted to open up today with Senator Bellmon. Senator Bellmon, you are the author of S. 119. In addition to that, you have taken an interest in trying to alert the Government and the Congress to paperwork for many, many years and we are delighted to have that good work and also to have you testify this morning on the bill before us.

TESTIMONY OF HON. HENRY BELLMON, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator BELLMON. Thank you, Mr. Chairman.

I want to begin by commending you for scheduling these hearings and for looking into this important matter.

As you have said, I do not think there is anything that frustrates and even angers our citizens quite as much as all the redtape the Federal Government keeps pushing at individuals and businesses, and I feel that Congress has the responsibility to try to bring this whole matter under control.

At the same time, I do not envy you. This is going to be a tough job and I feel like you are one who is tenacious enough to stay at it. And, if I can help you in any way, I would like to do that.

Comprehensive reform such as you plan to undertake is almost as complicated as the regulations and paperwork themselves. It is an important job that greatly needs to be done and I feel that the time has come that Congress will give you the support you need and urge you to get the job done.

BUSINESS REPORTING REFORM ACT

The contribution I would like to make at this time is to encourage you to incorporate in whatever legislation is finally developed the provisions of S. 119, which we call the Business Reporting Reform Act of 1979.

This act was introduced last January and I am even more convinced now than I was at that time of its merit.

It is intended to accomplish one simple but important objective and that is to reduce the paperwork private individuals and businesses must complete for our Government. Very simply, the bill would largely eliminate the duplicative reporting of the same information to different Federal agencies. We have a situation where one agency asks for information. The next week, another one is asking for the same thing.

Senator CHILES. I hear that over and over. Everytime I go back to the State, these people say I am furnishing exactly the same information over and over again.

Senator BELLMON. What the bill provides is that a business may furnish a release to the first Federal agency that requests information stating that the information reported may be released to any other agency. So, they just fill out the form one time and say, "Now the Government has got it and they get it from other agencies."

Senator CHILES. Under the Privacy Act, which is a Catch-22, the agency says no, we cannot release this information under the Privacy Act, so we have got to get it again.

Senator BELLMON. That is right.

So, the bill provides that businesses furnish such a release and businesses cannot be penalized for failure to report to another agency in the same year. Business would have to advise the agency that subsequently requests the already reported information, to contact the other Federal agency to which the information has already been provided.

The bill further provides exceptions for information requested by the Internal Revenue Service for tax purposes. It also provides exceptions for information provided to Federal regulatory agencies to carry out their enforcement functions and information requested by Federal contractors as a matter of contract compliance.

The bill does not waive any existing reporting requirements. Neither does it infringe on anyones right to privacy. It does permit individual businesses to authorize the release of information they provide and thereby avoid costly, time-consuming duplication.

That is our whole purpose.

PAPERWORK BLIZZARD

Mr. Chairman, you may recall the "60-Minute" broadcast of Sunday, January 14, 1979. That was based on the work of the Federal Paperwork Commission and the subsequent work of Murray Weidenbaum of Washington University in St. Louis on the regulatory overburden. Weidenbaum has estimated costs at up to $30 billion a year and that is a tremendous burden for Government to put on our citizens.

Past attempts to arrest the proliferation of paperwork have included requirements for Office of Management and Budget and GAO approval of reporting forms. Obviously, this has not been effective in holding down reporting requirements. Each and every Federal agency seems to continue to be able to argue that they have unique needs which can only be met by creating their own new forms.

It is regrettable that Congress has to legislate to correct these problems which could obviously have been corrected by administrative action or by executive order.

But, it is plain that we do have to pass legislation because the executive branch is simply not going to act until we force their hand.

COMMONSENSE APPROACH

S. 119 does not rely on the Federal agency to cut down paperwork, it lets the businessmen decide in the interest of cost control and convenience how much he is willing to let various Federal agencies exchange information about his firm.

I, for one, have enormous confidence in this kind of commonsense approach to help sort out the instances in which reporting requirements can be consolidated.

There is one other thing this bill would do and that is to require Congress to have the potential cost benefit of future reporting requirements before they are enacted. The bill simply provides that any committee of either House or Congress which would impose new and additional reporting requirements on private businesses must include in its report an analysis of whether the same or substantially similar information is already available. And, if it is not, what would be the estimated cost to the business community to provide that information and the use to which the information would be put.

I believe it is high time that we accept this discipline ourselves.

After all, Mr. Chairman, it is Congress in most instances which has created the duplicative reporting about which we now complain.

We all know that inflation is one of the most serious, if not the most serious problem facing our country. We have come a long way in recognizing the danger rampant inflation represents to our way of life.

We have taken some giant steps in the budget process towards more responsible fiscal policy to help control inflation, but we have not had decisive leadership from the executive branch nor from Congress on one of the most costly burdens we have and that is the regulatory overburden which helps to drive inflation.

This bill provides only one small, I feel, important opportunity for Congress to move in that direction and I am sure, during your work, you will come up with many others that are more important.

Therefore, Mr. Chairman, I feel the work you are undertaking is of the utmost importance. Even if the paperwork we now require of private businesses were not too costly and inflationary, it would not make much sense. But, it is costly and inflationary and I feel it

is high time we take action to slow down the process and turn it around.

Again, I congratulate you for undertaking this important task and I hope you will consider S. 119 as part of your deliberations.

Senator CHILES. Senator Bellmon, I agree that the idea behind your bill is a commonsense approach and we will work with you to see if we can incorporate that idea and that approach into our paperwork reduction bill.

APPROACH OF S. 1411

The approach that S. 1411 takes is to try to strengthen the reports clearance process within the agencies and within OMB.

As you know, one of our big problems is that this desire to know is so strong that many times it comes from someone way down the line. But it never escalates to a decision having to be made by the true managers themselves to weigh costs versus benefits.

Is that desire to know worth the cost that is going to be put on the private businesses, the school boards, the teachers, whoever it is, that will have to comply with the request I think the thrust of S. 1411 is to escalate that management decision and to require that the agency heads themselves really make the decision rather than somebody way down the line that just decides he would like to know some information. Also, OMB has to give a clearance number.

Under S. 1411 that businessman, when he gets all these forms, unless they have that OMB stamp in the upper right-hand corner, that stamp of approval, he will know that that is a bootleg form that he can throw away. We also will have a central register that before any agency seeks any information, they will have to go to that central register and you know how much information we have already accumulated.

By George, we have computers full of it, but no agency really knows what any other agency has or ever stops to look. They go get it again.

So, hopefully, if we use that central register, the businessman would never have to sign that waiver that you are talking about because, if the information is already onhand, the agency and OMB would have to check first to see whether it is there before OMB gives the clearance number.

But, as a backup, I think what you are talking about makes sense.

SENATE RULE 29.5

I also agree very much with your point that Congress needs to be more aware in the early legislative stages of the benefit versus cost of reporting requirement.

As you know, we have a rule in the Senate, rule 29.5, that requires a regulatory and paperwork impact evaluation to accompany committee reports. The House does not have a similar rule. We have been working with other Senators to get better enforcement of that rule and so far this year, we have gotten 191 committee reports to refer to the rule.

We took the floor early this session after putting the Senate on notice at the end of the last session that we were going to enforce the rule and send back to the committee any bill that did not have this requirement. Any time we have found a bill come through that did not have the requirement, we have gotten in touch with the committee and pointed out the error to them. We told them a correction had to be made or a point of order would be made and the bill would be referred back to committee.

And, so far, in each of the 191 committee reports we have reference to the rule. I think we can improve the quality and that is what we will be shooting for now.

At least we have a rule and in the last Congress, even though we had that rule, we found that it was ignored, over one-third of the time. So, a key strategy, I think, to meet the spirit of the rule would be to get agency comments on proposed legislation to focus on the regulatory aspects and also in the economic cost-benefit aspects.

Senator BELLMON. Mr. Chairman, it is to me a very healthy development that you are on top of this problem and I would like to offer my support so that I can work with you when I can.

Also, members of my staff have worked with me on that. Bob Fulton is here, Carol Cox, who is not here.

Senator CHILES. We would like to very much and we welcome any comments that you may have.

We all want to do something about paperwork. We all go back home and talk about what we are going to do, but how do you come to grips with it?

THREE-PART STRATEGY

I have tried to develop a three-part strategy approach to paperwork reduction. One is rule 29.5, which means that the Senate has got to make sure that on the legislation we are passing, that we take into consideration what type of paperwork requirements we are committing to and that we have to view that and speak to it.

Second, this bill requires the clearance process and requires the central registry, and generally escalates the level at which a decision about paperwork is made.

Third, I think passage of the Sunset bill might be the best one of them all to give us a handle and to look at the functions of agencies and the agencies themselves to determine if they have outlived their usefulness.

I think the mere fact that the agencies have to come back to us to renew their charter and renew their life span would give us much better clout in trying to deal with them. If you can think of any other ways; and, of course, your bill is a positive one, then we want to try to attack it on other fronts as well.

Senator BELLMON. Very good. Thank you, Mr. Chairman.

Senator CHILES. Thank you very much for your appearance.

[The prepared statement of Senator Bellmon follows:]

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NOVEMBER 1, 1979
STATEMENT OF SENATOR HENRY BELLMON ON S. 119
"THE BUSINESS REPORTING REFORM ACT OF 1979"
BEFORE THE SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT, SENATE GOVERNMENTAL AFFAIRS COMMITTEE

MR. CHAIRMAN, SENATORS, THANK YOU FOR THE OPPORTUNITY TO TESTIFY TODAY. I DO NOT ENVY YOU THE TASK YOU HAVE UNDERTAKEN: TO REVISE AND SIMPLIFY FEDERAL REGULATORY AND PAPERWORK REQUIREMENTS. COMPREHENSIVE REFORM, SUCH AS YOU HAVE UNDERTAKEN, IS ALMOST AS COMPLICATED AS THE REGULATIONS AND PAPERWORK THEMSELVES. I HOPE I CAN CONTRIBUTE TO THE PROCESS, HOWEVER, BY ENCOURAGING YOU TO INCORPORATE IN THE LEGISLATION YOU REPORT THE PROVISIONS OF S.119, "THE BUSINESS REPORTING REFORM ACT OF 1979", WHICH I INTRODUCED IN JANUARY.

S. 119 IS INTENDED TO ACCOMPLISH ONE SIMPLE, BUT IMPORTANT, OBJECTIVE: TO REDUCE THE PAPERWORK PRIVATE INDIVIDUALS AND BUSINESSES MUST COMPLETE FOR THEIR GOVERNMENT. VERY SIMPLY, THIS BILL WOULD LARGELY ELIMINATE THE DUPLICATIVE REPORTING OF THE SAME INFORMATION TO DIFFERENT FEDERAL AGENCIES. THE BILL PROVIDES THAT A BUSINESS MAY FURNISH A RELEASE TO ANY FEDERAL AGENCY TO WHICH IT REPORTS ANY INFORMATION, STATING THAT THE INFORMATION REPORTED MAY BE RELEASED TO ANY OTHER FEDERAL AGENCY. THE BILL FURTHER PROVIDES THAT, IF A BUSINESS FURNISHES SUCH A RELEASE, IT CANNOT BE PENALIZED FOR FAILURE TO REPORT THE SAME INFORMATION TO ANOTHER FEDERAL AGENCY IN THE SAME YEAR. THE BUSINESS WOULD HAVE ONLY TO ADVISE ANY AGENCY SUBSEQUENTLY REQUESTING THE ALREADY REPORTED

INFORMATION TO CONTACT THE OTHER FEDERAL AGENCY TO WHICH THE INFORMATION HAS ALREADY BEEN SUBMITTED.

THE BILL PROVIDES EXCEPTIONS FOR INFORMATION REQUESTED BY THE INTERNAL REVENUE SERVICE FOR TAX PURPOSES; INFORMATION REQUESTED BY FEDERAL REGULATORY AGENCIES NECESSARY TO CARRY OUT THEIR ENFORCEMENT FUNCTIONS; AND INFORMATION FURNISHED BY FEDERAL CONTRACTORS, AS A MATTER OF CONTRACT COMPLIANCE. THIS BILL DOES NOT WAIVE ANY EXISTING REPORTING REQUIREMENTS. NEITHER DOES IT INFRINGE ON ANYONE'S RIGHT TO PRIVACY. IT DOES PERMIT INDIVIDUAL BUSINESSES TO AUTHORIZE THE RELEASE OF INFORMATION THEY PROVIDE AND, THEREBY, AVOID COSTLY TIME CONSUMING DUPLICATION.

SOME OF YOU MAY RECALL THE "60 MINUTES" BROADCAST OF SUNDAY, JANUARY 14, 1979. THAT PROGRAM WAS BASED LARGELY ON THE WORK OF THE FEDERAL PAPERWORK COMMISSION, AND ON THE SUBSEQUENT WORK OF MURRAY WEIDENBAUM, OF WASHINGTON UNIVERSITY, ST. LOUIS, ON "THE REGULATORY OVERBURDEN." WEIDENBAUM HAS ESTIMATED BUSINESS REPORTING COSTS, WHICH S. 119 WOULD MITIGATE, AT UP TO $30 BILLION EACH YEAR.

PAST ATTEMPTS TO ARREST THE PROLIFERATION OF PAPERWORK HAVE INCLUDED REQUIREMENTS FOR OFFICE OF MANAGEMENT AND BUDGET AND GENERAL ACCOUNTING OFFICE APPROVAL OF REPORTING FORMS. OBVIOUSLY THAT HASN'T BEEN EFFECTIVE IN HOLDING DOWN REPORTING REQUIREMENTS. EACH AND EVERY FEDERAL AGENCY SEEMS TO CONTINUE TO BE ABLE TO ARGUE THAT THEY HAVE UNIQUE NEEDS, WHICH CAN ONLY BE MET BY CREATING THEIR OWN NEW FORMS.

IT IS REGRETABLE THAT CONGRESS HAS TO LEGISLATE TO CORRECT THESE PROBLEMS, WHICH COULD OBVIOUSLY HAVE BEEN CORRECTED BY EXECUTIVE ORDER. BUT IT IS PLAIN THAT WE DO HAVE TO PASS LEGISLATION, BECAUSE THE ADMINISTRATION IS SIMPLY NOT GOING TO ACT OTHERWISE.

S. 119 DOES NOT RELY ON THE FEDERAL AGENCIES TO CUT DOWN PAPERWORK. IT LETS THE BUSINESSMAN DECIDE, IN THE INTEREST OF COST CONTROL AND CONVENIENCE, HOW MUCH HE IS WILLING TO LET THE VARIOUS FEDERAL AGENCIES EXCHANGE INFORMATION ABOUT HIS FIRM. I, FOR ONE, HAVE ENORMOUS CONFIDENCE IN THIS KIND OF COMMON SENSE APPROACH, TO HELP US SORT OUT THE INSTANCES IN WHICH REPORTING REQUIREMENTS CAN BE CONSOLIDATED.

ONE MORE THING OUR BILL WOULD DO, MR. CHAIRMAN, IS TO REQUIRE CONGRESS TO CONSIDER THE NECESSITY FOR, AND THE POTENTIAL COST/BENEFIT OF, FUTURE REPORTING REQUIREMENTS -- BEFORE THEY ARE ENACTED. THE BILL SIMPLY PROVIDES THAT, ANY COMMITTEE OF EITHER HOUSE OF CONGRESS REPORTING LEGISLATION WHICH WOULD IMPOSE NEW OR ADDITIONAL REPORTING REQUIREMENTS ON PRIVATE BUSINESS, WOULD HAVE TO INCLUDE IN ITS REPORT AN ANALYSIS OF WHETHER THE SAME OR SUBSTANTIALLY SIMILAR INFORMATION IS AVAILABLE ALREADY; AND IF IT IS NOT, WHAT WOULD BE THE ESTIMATED COST TO THE BUSINESS COMMUNITY OF PROVIDING THAT INFORMATION, AND THE USE TO WHICH THE INFORMATION WOULD BE PUT. IT IS HIGH TIME WE REQUIRE THIS OF OURSELVES. AFTER ALL, MR. CHAIRMAN, IT IS CONGRESS IN MOST INSTANCES WHICH HAS CREATED THE DUPLICATIVE REPORTING OF WHICH WE NOW COMPLAIN.

MR. CHAIRMAN, INFLATION IS THE MOST SERIOUS PROBLEM FACING OUR NATION TODAY. WE HAVE COME A LONG WAY, MR. CHAIRMAN, IN RECOGNIZING THE DANGER RAMPANT INFLATION REPRESENTS TO OUR VERY WAY OF LIFE. WE HAVE TAKEN GIANT STRIDES, THROUGH THE BUDGET PROCESS, TOWARD MORE

RESPONSIBLE FISCAL POLICY TO HELP CONTROL INFLATION. BUT WE HAVE NOT HAD DECISIVE LEADERSHIP FROM THE EXECUTIVE BRANCH NOR THE CONGRESS ON MOST OF THE COSTLY REGULATORY OVERBURDEN WHICH HELPS DRIVE INFLATION. THIS BILL PROVIDES ONE SMALL, BUT IMPORTANT, OPPORTUNITY FOR CONGRESS TO PROVIDE NEEDED LEADERSHIP.

THIS SUBCOMMITTEE'S WORK IS, THEREFORE, OF THE UTMOST IMPORTANCE. EVEN IF THE PLETHORA OF PAPERWORK WE NOW REQUIRE OF PRIVATE BUSINESS WERE NOT SO COSTLY AND INFLATIONARY, IT WOULD NOT MAKE SENSE. BUT IT IS COSTLY. IT IS INFLATIONARY. AND IT IS HIGH TIME WE DO SOMETHING ABOUT IT. I CONGRATULATE YOU FOR UNDERTAKING THIS IMPORTANT TASK. I SINCERELY HOPE YOU WILL CONSIDER S. 119, AS A PART OF YOUR DELIBERATIONS; AND I URGE YOU TO INCLUDE THE PROVISIONS OF OUR BILL IN THE LEGISLATION YOU RECOMMEND TO THE SENATE.

THANK YOU.

Senator CHILES. Our next witness will be Senator McIntyre, who is very involved in the Citizens Committee on Paperwork Reduction.

He is one of the founders of the Paperwork Commission and certainly one of its outstanding members and he is the person that tried to escalate this paperwork burden in front of the Congress as early as anyone did.

Senator McIntyre, we are delighted to have your continued interest in the questions that you started a long time ago.

TESTIMONY OF HON. THOMAS J. McINTYRE, FORMER SENATOR FROM NEW HAMPSHIRE, ON BEHALF OF THE CITIZENS COMMITTEE ON PAPERWORK REDUCTION, ACCOMPANIED BY JOHN M. CROSS, EXECUTIVE VICE PRESIDENT, CITIZENS COMMITTEE ON PAPERWORK REDUCTION

Senator MCINTYRE. Thank you very much, Mr. Chairman.

As you know, for the record, my name is Tom McIntyre and I have served in this U.S. Senate for some 16 years.

I am accompanied this morning by Mr. John Cross, who is the executive vice president of the Citizens Committee on Paperwork Reduction.

Senator CHILES. We are delighted to have you with us. He has been very helpful too.

Senator MCINTYRE. Before I launch into this brief recitation, I could not help but hear your colloquy with distinguished Senator Bellmon. I used to think of the insatiable desire for information that runs abroad in this great Capital of ours. As you pointed out, someone way down the line says, "Well, we ought to know something about this, so add this question in." I think that one of the strongest points you are going to have to emphasize if we are going to beat this problem, which we are going to have to do by trial and

error, is to be sure that somewhere up the line there is a person, a policeman, if you will, who can say, "No, you cannot have that information. It is available over here." It is central to the whole problem.

I agreed to come here this morning, Mr. Chairman, to talk very briefly about Government paperwork on behalf of the Citizens Committee on Paperwork Reduction and other interested groups.

ANGRY PUBLIC

I have come to tell you what you already know, that the American public is angry.

There are some towns in New Hampshire, even now, where I do not dare to go by that florist shop because if I do, they will put one of those tags on me and bring me in and beat me over the head, because this fellow is filled with hate for Government and for me, especially.

There are groups out there that are planning to send you and your staff xerox copies of all forms they receive, so as to clutter up the Senate's halls and offices and they are demanding relief from Government gumshoes known in the trade as compliance officers.

The cost of Government paperwork as you have already said, reached billions. We can only behave like the Oracle of Delphi and estimate the level, but it is billions for postage, typewriters, secretaries, time, frustrations. Those costs can be traced. Where do you think? Right here to this U.S. Senate and its colleagues over on the other side of the Hill, the Members of the House of Representatives.

And, the cost can be traced not to you, Mr. Chairman, and your committee, nor to your subcommittee. But, generally, to inaction.

Inaction that means Government agencies can ask for more information than they need because no one is there to stop them when they would like to ask for more.

Inaction that means we pay millions to store records which in cases like the SEC cannot be destroyed. Inaction means more information with every law.

Mr. Chairman, soon there will be a new Education Department. Right now, that Department is subject to no Federal Reports Act and no reports clearance process. I hate to think, and I am sure you do too, of the information, the figures that it will ask our school districts to provide.

Back home, in New Hampshire, I think in the city of Nashua, the board committee says, "We do not want your money, just get out of here and stop sending us all these forms."

Senator CHILES. That particular reason right there is why we have got to pass this bill and pass it very, very quickly.

I had a little requirement on that bill. It went to the conference committee. It still had that requirement on it. And, at the conference committee, they said, "This is causing the whole bill to be hung up."

The only thing I got from that was a commitment from the chairman of both of the committees, which is the parent committee here and Jack Brooks in the House, that they move this bill very quickly and based on that committee, I decided——

Senator McINTYRE. Did you get that in from the House?

Senator CHILES. Yes, sir, we did.

Senator McINTYRE. Good.

Back in 1971, the Nation established vocational training programs. We have never had a listing of the race, or sex, or handicap of the people. Now, there are 142 of them that are federally financed. But, the Office of Education is asking for a census of who is taking what.

The cost: $4 per student or half the salary of one teacher.

Senator CHILES. How in the world did we ever get these programs without having that information?

Senator McINTYRE. The trouble is that somebody——

Senator CHILES. Wouldn't you think that it would just be impossible to ever have a program without all of this information and yet, we had 140 programs?

Senator McINTYRE. I think it would probably be very, very successful with about one-fourth of the information. I want to keep on track here or we will be here all day, because I just want to say, Senator, I really appreciate your taking hold of this and working hard on it. And, you have got a good colleague, Sam Nunn who is very much interested in this.

Senator CHILES. Very much so.

PAPERWORK GROWTH

Senator McINTYRE. Just a few years ago, we established the Department of Energy. We wanted to know how much oil we had in the ground and where the oil companies make their profits. Millions of forms and schedules later, we still do not have the answer. And, just the other day, Scoop Jackson said, "We just do not know."

You know, I do not think our people out there in the country realize that the Government of the United States of America is dependent upon what the oil companies tell us about what they have got and what they are going to do with it.

Look at EPA. Back in the early 1970's, we wanted to have clean water and clean air. EPA was supposed to develop plans, put out rules and collect data. EPA has massive amounts of paperwork out now. Plans no reduction in its data request and won't complete this compilation for years.

Look at pension forms. Goodness knows, I do not know why we passed it on the floor. It must have been 89-to-4. Look at the turmoil it passed. We wanted to protect pensioners who are being left out.

The paperwork put out now by the agencies put thousands of pension plans out of business. They just quit. Now the IRS, the Department of Labor and the Pension Benefit Guaranty Corporation are beginning at least their third rewrite of the pensions plan paperwork.

Now, they propose a triennial, once every 3 years report, to save little pensions from annual filings but the examination shows that the triennial form that they are putting out is asking questions that the annual form never thought of.

I want to say that I do not mean that EPA, the Department of Energy and even the Department of Education are bad in and of themselves. I am for them, but it is just how they get out of hand with this paperwork.

A NEED TO SAY NO

We used to call it strangulation in triplicate. We must come up with a law that says someone in the Government can stop paperwork from going on to the public. The Citizens Committee thinks someone should be in the Executive Office of President. That someone needs to be able to say: Can you handle this? "Oh, Mr. Secretary of Defense, you cannot ask for that."

Early on, in my experience, we had a little group that did analyze and take a look at some of these forms coming through but if some good bureaucrat, and we have millions, said this is duplicating, I do not think we should approve this form.

What do you think happened? So, someone back in the Department of Commerce would go to his Assistant Secretary and say: "Hey, some GS-8 or 9 down in the OMB says or BOB, I guess it was at that time, says, we cannot have that form." The Assistant Secretary calls up and says: "Who is that GS-8 down there," and growls at him and the GS-8 says, "Sure, you can have it."

We have got to have somebody who is going to say "no" to some of this insatiable desire for information.

I want to say right here, Mr. Chairman, that I would like to add that the Citizens Committee on Paperwork Reduction is one of several groups that are interested and want to work with you and the staff of the House, too, on paperwork reduction and regulatory reforms.

Additionally, there is the Business Advisory Council on Federal Reports and the Council on Federal Paperwork in the Chamber of Commerce and several other groups, many of whom are submitting statements today.

Mr. Chairman, your bill, it seems to me, would begin to do just that, to begin to try to tackle this problem.

I applaud again. You know, rule 29 was my amendment to a Talmadge amendment or a modification of that. But, if you have got staff enough to track that thing and here again, let me just pause and say, this is a very dangerous area.

How are we going to make sure that when that bill is reported to the floor, that the staff of that committee, say it is the Finance Committee, Russell Long's committee, has a statement from that committee trying to project what they think is going to be caused in the field of paperwork by this bill. You have got to work on that very hard just to make that sensible. Because most of the staffers will just turn their nose up and say: "How in the name of God can we predict what amendments will be on the floor in Congress?"

So, anyway, enough of that. Let's hope that you can report it quickly, that the House of Representative agrees and get a bill and you can begin to stop the waste.

Thank you very much, Mr. Chairman, for giving me this time.

Senator CHILES. Thank you very much, Senator McIntyre.

I know what you are talking about when you talk about folks organizing to send their Congressman all of the forms that they receive.

I had one fellow come into a hearing that we had in Jacksonville and he had pasted together all of the forms that he dealt with and they went across the room. They were yards and yards long. I had another witness in our St. Petersburg hearing, an insurance man, who just said that the people are not going to comply, that they are going to revolt and they are going to just tell the Government that they are going to have to come get them, that they are not going to do it. He was ready to lead the fight in that direction.

That frustration is so strong.

Senator McINTYRE. I would like to just say, Mr. Chairman, that as much as I would like to see this problem solved, I realize it is complex and difficult. So horrendous, I might say, but I hope that we could get something on the books to begin to work at it so that you can have an administrator come back here and say: "Mr. Chairman, we have been trying for 2 years. Here is some of the things we cannot do and here is some of the things we can do. We have got to learn to tackle this miserable problem."

Senator CHILES. I also agree that we have got to have some accountable person who can say no to a Cabinet Secretary.

Senator McINTYRE. Let's give them a GS–18.

Senator CHILES. Very often, the program officials of an agency can drive their information needs to the top and get their Secretary to fight for them, just to say we have got to have that.

We appreciate very much the support of your group ard we look forward to continuing to work with you and we thank you for your continued interest.

Senator McINTYRE. Thank you very much, Senator.

[The prepared statement of former Senator McIntyre follows:]

CITIZENS COMMITTEE ON PAPERWORK REDUCTION
1625 EYE STREET, N.W • WASHINGTON, D C 20006 • (202) 659-6485

Mr. Chairman, I'm Tom McIntyre and for 16 years I served as a member of the Senate. I agreed to come here today to talk about government paperwork on behalf of the Citizens Committee. I've come to tell you that the American public is angry, that there are groups of them planning to send you Xerox copies of all the forms they receive to clutter up the Senate's halls and offices and that they are demanding relief from government gumshoes.

The costs of government paperwork reach billions--we can only behave like the oracle of Delphi and estimate the level, but it is billions--for postage, typewriters, secretaries, time, hassles, frustrations, hair-tearing.

Those costs can be traced to this august body and the House on the other side of the Hill. The costs can be traced to inaction.

Inaction that means government agencies can ask for more information than they need because no one stops them when they'd like to ask for more.

Inaction that means we pay millions to store records, which in cases like the Securities and Exchange Commission, cannot be destroyed.

Inaction that means more information with every law.

Mr. Chairman, soon there will be a new Education Department. Right now that Department is subject to no Federal Reports Act and no reports clearance process. I hate to think of the figures it will ask our school districts to provide. We have an idea of what it will be like with VEDS...the Vocational Education Data System.

Back in 1917 the nation established vocational educational training programs. We've never had a listing of the race, sex, or handicap of the students who take these Voc Ed courses. Now there are 142 of them that are federally financed

But the Office of Education wants to know and is asking for a census of who is taking what. The costs: $4 per student, or about half the salary of one teacher in a small county! That's a lot of money for something we have never needed to know before.

Mr. Chairman, just a few years ago we established a Department of Energy. When we set it up we wanted to know how much oil we had in the ground and where the oil companies made their profits. Millions of forms later we still don't have the answers. Just the other day Scoop Jackson said "We just don't know."

Look at EPA. Back in the early 1970's we wanted to have clean water and air. EPA was supposed to develop plans, put out rules and collect data. EPA has massive amounts of paperwork out now, plans no reductions in its data requests, and won't complete its compilations for years.

Or look at pension reform. Back when we passed ERISA we wanted to protect pensioners. The paperwork put out by the agencies put the pension plans out of business. Now the IRS, the Department of Labor and the Pension Benefit Guaranty Corp. are beginning at least their third rewrite of the penions plan paperwork. Now they propose a triennial report to save little pension plans an annual filing. The only problem is that the triennial form is asking questions that the annual form never had. Still more data compilation.

All this brings me to my major point:

You must come up with a law that says someone in the government can stop paperwork from going out to the public. The Citizens Committee thinks that someone should be in the Executive Office of the President. That someone needs to be able to say: "Mr. Secretary of Defense, you cannot ask for that."

Mr. Chairman, your bill would begin to do just that. Let's hope that you can report it quickly, that the House of Representatives agrees and you can begin to stop the waste.

Thank you.

Senator CHILES. Our next witness will be Wayne Granquist, the Associate Director of Management and Regulatory Policy of the Office of Management and Budget.

TESTIMONY OF WAYNE G. GRANQUIST, ASSOCIATE DIRECTOR FOR MANAGEMENT AND REGULATORY POLICY, OFFICE OF MANAGEMENT AND BUDGET, ACCOMPANIED BY STANLEY MORRIS, DEPUTY ASSOCIATE DIRECTOR FOR REGULATORY POLICY AND REPORTS MANAGEMENT

Mr. GRANQUIST. Good morning, Mr. Chairman. With me is Stanley Morris who is Deputy Associate Director for Regulatory Policy and Reports Management OMB.

I would like to summarize my statement and hit some of the high spots.

Senator CHILES. Your statement in full will be included in the record at the conclusion of your testimony.

Mr. GRANQUIST. Thank you.

I am pleased to testify today on Federal paperwork and what we in the Office of Management and Budget are doing to reduce it.

Few other topics evoke more of an outcry. In our last published report, we counted 4,916 forms, reports and recordkeeping require-

ments in use by Federal agencies—reports that imposed an estimated reporting burden of more than 786 million hours a year.

No one questions the basic need of the Government for information to plan, make policy decisions, operate and evaluate programs and perform necessary research.

The question is, however, how much information is essential?

The policy of this administration is to take and support strong actions to reduce the burdens imposed by the Federal Government; to insure that only essential or statutorily required information is collected; and to strengthen the system for controlling and managing paperwork by administrative action.

Mr. Chairman, we appreciate your continued efforts at reducing paperwork and subject to one important reservation strongly support your proposed legislation, S. 1411. Although we do not support the provisions that would set up a new statutorily mandated Office of Federal Information Management Policy, we believe your bill, through provisions for a centralized forms clearance process, increased agency responsibility and planning for information requests, and more effective methods to eliminate duplication, is a constructive approach to curbing the Government's sometimes insatiable appetite for information.

Our testimony today will cover the history of steps that OMB has taken to reduce the paperwork burden, a discussion of how we think S. 1411 will contribute to reducing paperwork, and some suggested modifications of the bill.

HISTORY OF PAPERWORK CONTROL

Our experience in trying to control paperwork goes back to the Federal Reports Act of 1942, under which act, the Office of Management and Budget is responsible for implementing the law.

This has been achieved through a centralized review of data collection activities involving 10 or more members of the public.

From the beginning, OMB's ability to control reporting burden has been limited by exemptions to the Federal Reports Act. All of the forms of the Internal Revenue Service and most of the reports of the bank regulatory agencies have not been reviewed by any unit outside that agency and that has been the case since the inception of the act. Because of these provisions, almost three-quarters of the public reporting burden is excluded from OMB review.

CONGRESSIONAL EXEMPTIONS

In addition to these original exclusions, the Congress in recent years enacted other exclusions. In 1973, an amendment to the Alaska Pipeline Authorization Act, transferred reports clearance authority from OMB to the General Accounting Office for the so-called independent regulatory agencies. In addition, the Surface Mining Control and Reclamation Act of 1977 provides for GAO review of reports of the Office of Surface Mining in the Department of Interior. Reports that make up 5 percent of total reporting burden are included in GAO's inventory.

The Health Professions Act of 1976 exempted from OMB review certain data collection activities relating to the availability and

distribution of health manpower, and that is a little less than 1 percent of reporting burden.

The Education Amendments of 1978 further fragmented the clearance process by transferring review authority from OMB to the Secretary of Health, Education, and Welfare for most educational data collection activities; up to 2 percent of reporting burden. Because the law affects any department or agency that requests information from an educational agency or institution, it totally fragments central oversight. It splits individual agency accountability between controlling authorities, and renders it virtually impossible to measure progress in the paperwork reduction program either for the Government as a whole or for the individual agency.

Mr. Chairman, we appreciate your efforts to modify this exception.

We estimate that because of all these exemptions only 19 percent of reporting burden is subject to OMB control under the Federal Reports Act. We endorse the provision of your bill that would centralize the forms clearance process and thereby implement one of the most important recommendations of the Commission on Federal Paperwork.

PRESIDENT'S REDUCTION PROGRAM

To date, Mr. Chairman, more than half of the 520 recommendations directed to the executive branch have been implemented. About one-third remain for action by March 1980. We have been working closely with the agencies to try to insure that the March 1980 deadline is met.

At his first cabinet meeting, President Carter announced his intention to establish a continuing program to address the paperwork problem. Under that program, OMB establishes an overall ceiling on the burden that each Department or agency may impose on the public and the President asks each department head to set an annual goal for reducing reporting and recordkeeping burdens. We have published three reports that show agencies progress in achieving their goals.

Mr. Chairman, we would like to submit to the subcommittee a copy of the most recent report.

In the first 2 years of the Carter administration, the burden levied by Federal agencies subject to the President's paperwork reduction program, has been reduced almost 15 percent. This is a net figure that includes both increases and decreases.

And, to help you understand how we have accomplished this, let me describe some specific actions.

There are many ways that OMB reduces reporting burden during the course of a review. We may reduce the number of data items that a respondent must supply, we may reduce the frequency of reporting requirement. We may combine forms as another way of reducing reporting.

We may, through changes in sample design, establishing size cutoffs, and other measures, reduce reporting burden on small businesses. For example, the paperwork burden placed on small businesses by the Occupational Safety and Health Administration

has been significantly reduced. No longer will 40,000 businesses with fewer than 11 employees have to fill out OSHA's annual survey.

Disapproving proposed forms is another way that we try to keep a lid on reporting. Of about 180 reports acted on last month, OMB disapproved 13 percent, a marked increase, and continuing increase, in the disapproval rate of 3.4 percent for October of last year and the less than 3 percent disapproval rate cited in a recent GAO Report for the time period from January of 1975 to June of 1978.

While progress has been made, it is becoming more evident that significant, easy targets of opportunity to reduce reporting burden are diminishing. New legislative requirements in the areas of energy and environmental protection, new policy initiatives to deal with inflation, particularly in the health area, and efforts to reduce fraud and abuse are likely to increase reporting burden on the public.

Our preliminary review of still incomplete fiscal year 1979 figures indicates that for the first time in this administration, there was no further decrease in total reporting burden.

Further reductions will be possible only through serious, sustained, and innovative efforts in the agencies and constant attention and commitment from agency heads, OMB, the President, and Congress. It is no longer sufficient to attack the symptoms of excessive paperwork, it is necessary to attack its causes—bad regulations, confused and inefficient organization, and flawed legislation.

FASTEST GROWING AREA

The relationship of regulations and reporting burden has become clearer over the past 2 years. We estimate that over half of total Federal nontax reporting is based on the need to insure compliance with laws or regulations. It is the fastest growing area of the paperwork problem and the chief characteristics of this reporting are that it is mandatory, usually complex and frequently requires a considerable amount of the public's time.

In part to address this problem, President Carter issued Executive Order 12044—Improving Government Regulations—in March of 1978, to improve the management of the regulatory system and to assure that regulations are cost effective and operate efficiently; unnecessary regulations are eliminated; the public is fully involved in developing regulations; and rules are written with commonsense.

The Executive order requires that an estimate be made of the new reporting burden necessary for compliance with a given new regulation.

Our first report on agencies progress in implementing this Executive order was provided to the President on September 17, 1979.

We also increased our attention to the regulatory and paperwork burden placed on small business. We are working closely with the Small Business Administration to take a closer look at ways to reduce reporting burden on small businesses.

In preparation for the White House Conference on Small Business, SBA is also developing a catalog of all paperwork that small businesses must complete. We look forward to the results of the White House Conference on Small Business to be held early next year for suggestions on how to repair specific paperwork problems.

PRESIDENTIAL INITIATIVES

In September 1977, the President issued a directive to reduce paperwork and redtape in the grant-in-aid programs to State and local governments. The issuance prescribed that all State and local grant programs must comply with OMB Circular A-102. The circular implements the Intergovernmental Cooperation Act of 1968 and establishes standards for consistency and uniformity among Federal agencies.

We have been carrying out the President's directive by requiring that grant applications or performance report forms be in compliance with the circular. This has saved immeasurable hours of reporting burden on State and local governments.

Since legislative requirements are often the source of extensive data collection activity, we also would hope that any new reporting requirement, evaluation study or report to the Congress is pared to the bare minimum as required by rule 29. Your work in establishing and enforcing rule 29.5 is a significant innovation. As I know you agree, Mr. Chairman, the creation of mountains of paper should not be a criterion for judging a program's success.

The fact is that the paperwork control system as it exists today is flawed. It is characterized by fragmented and incomplete responsibility for control; a review process that is layered, redundant, and reactive; insufficfent public involvement in the design of reporting requirements; absence of a comprehensive and systematic way to identify duplication; and low priority of the reports clearance process at the agency level.

We recognize these problems and are taking steps to counter the weaknesses in our process.

NEW DIRECTION

The President will soon sign an Executive order that will start paperwork management in a new direction. The Executive order is complementary to your legislation. Emphasis will be given to strengthening agency information management, and the agencies will be required to assure more public involvement in the development of reporting requirements, including comments on how to minimize the burden of paperwork on individuals and small institutions.

In addition, it will implement some of the most far reaching of the Commission on Federal Paperwork recommendations.

We can and we will take these first steps; to do more requires action by Congress. We view your assistance on paperwork matters and your proposed legislation as the type of support and involvement needed from all Members of Congress.

Better management to reduce the burden on individuals, small business, and other respondents requires a centralized, comprehensive authority. It is essential that no agency be exempt from over-

sight and that authority over Federal paperwork not be splintered among several agencies as it is now.

For example, the success of the information locator system in identifying duplicative requests for information hinges upon that system covering the information requests of all Departments and agencies.

I know that you may hear concerns from the independent regulatory agencies about OMB review. OMB, however, had responsibility for review of these forms for 31 years prior to the Trans-Alaska Pipeline Authorization Act.

We know of no instances of misuse of that authority, unwarranted delay in exercising our authority, or interference or threats to the agencies' independence.

CONCERNS ON PAPERWORK OFFICE

As I mentioned at the outset, we do have concerns about the proposed establishment of the Office of Federal Information Management Policy responsible for Government-wide oversight of paperwork, statistical policy, and Privacy Act functions, headed by a Presidential appointee confirmed by the Senate.

First, we fear that such an appointee would be viewed as downgrading the level of the administration's spokesperson on paperwork reduction from the Director to the head of a component of OMB.

Second, we are concerned about the public's reaction to establishing a new office. We are afraid that it might be perceived as the typical Government response to a problem—create another bureaucracy.

We believe it would be much better to change existing agencies and current practices in order to obtain a lasting effect on paperwork.

Third, the establishment of the new office would separate paperwork reduction and information coordination from OMB's other responsibilities, including regulatory reform oversight, grant consolidation efforts, program evaluation, and legislation and budget oversight. In our view, this would force the unit to focus on the symptoms, not the causes of paperwork. We do not want to build a "Chinese Wall" between those concerned with reducing paperwork and those concerned with minimizing the other burdens imposed on taxpayers and the private sector by the Federal Government.

We fully understand your concern about insuring sufficient attention to and resources in OMB for paperwork control. We are adding 13 new positions to our paperwork and regulatory reform office. We believe OMB will be well prepared to implement the changes that the Executive order and your legislation will bring to paperwork control.

PERFORMANCE REPORT

We also understand your concern about holding OMB accountable for performance. To assure OMB accountability to Congress, we would support provisions to require OMB to provide an annual report to the Congress on resource allocations, accomplishments,

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and plans for paperwork management in OMB and the agencies; routine GAO assessment of this report could be stipulated

We could set milestone dates for completing key tasks, such as implementing the Federal Information Locator System, making needed organizational and resource changes in the agencies, performing a zero based review of all existing paperwork requirements, and proposing legislative changes based on what we learn in such a review; and extend the date for OMB oversight of the implementation of the Federal Paperwork Commission recommendations for an additional 2 years.

Mr. Chairman, we believe we have made significant progress in this administration in reducing the amount of paperwork imposed on the American people.

We endorse the thrust of S. 1411. We agree that the comprehensive responsibility for paperwork control should be placed in OMB.

We welcome the opportunity you have given us to work with the Congress, and will be pleased to cooperate with you and your staff in developing specific language to resolve your concerns with accountability and resources.

Thank you very much for the opportunity to present the views of the administration on this bill.

BACK HOME ACCOUNTABILITY

Senator CHILES. Thank you for your testimony. We are delighted to have received the support of the Office of Management and Budget and the President. I concur that the President has been trying to do something about the paperwork, and I think that your office has too.

Everytime that I heard reports of progress being made and I think there has been some progress, I would go home and start talking about this progress. I have yet, at any meeting that I have been to, been able to find anybody that felt that we made any progress.

I do not know whether that will ever happen, and maybe it won't. Maybe, as long as there is any piece of paper out there, you won't feel it. But, I think if anything, the reverse is true and the general public still feels that there is more, I mean each segment feels that there is more.

Now, I have gotten some people to admit that they do not have to file some reports. But, they will immediately tell me that those have been replaced by something else in their specific endeavor.

In gasoline, for example, they will tell you how many other forms they have to fill out.

Your testimony about not wanting the separate office is something that we will consider.

Certainly, the reason for this office is to try to escalate the visability and, therefore, the accountability of this whole process so that it won't get lost. The Congress in its oversight responsibility can focus in on one office. The President can be graded on how he has performed on whether that office is carrying out meaningful functions and reductions. If you have that separate office, then we can assign sufficient resources and know that those resources are going to be used there. We will know they are not going to go to

the next little hot project that comes along. We will be able to see if resources are siphoned off and used somewhere else.

Mr. GRANQUIST. We are very sympathetic in your concern with that, Mr. Chairman, and I guess I would say two things, if I could.

One is that the Director of OMB, Jim McIntyre is concerned about the paperwork; and Senator McIntyre mentioned who is the guy that can say "no" to Secretary of Defense Harold Brown, but Jim McIntyre can say no a lot better, I suspect, than a lower level Presidential appointee could.

That is something you can keep in mind when you talk about paperwork reduction, when you talk about implementing controls and control teams.

A person who sits astride lots of processes and is a Presidential advisor and counsel has more clout in being able to control the things that are important like paperwork than somebody who is a little bit lower down in the process.

In terms of accountability of OMB, we began a year or so ago, starting to issue reports to the public about how the agencies were doing. The reports, first on paperwork, now in the regulatory area, caused some amount of brouhaha in the executive branch. We believe it is an appropriate role and we intend to continue that so long as we have something to say about where OMB goes. And these reports, I think, demonstrate that we take these problems seriously. We hope that this kind of activity as well leads agencies to take this activity of ours seriously.

IRS EXEMPTION

Senator CHILES. The Treasury Department contains several of the agencies presently exempt from the Federal Reports Act; the IRS, the Comptroller of Currency, among others.

I asked Treasury to testify today. My understanding is that they respectfully declined and indicated that OMB would present the administration's position on the paperwork bill.

That sounds to me that a debate has been had and a decision has been made. Is that correct?

Mr. GRANQUIST. There has been a decision, Mr. Chairman, yes, sir.

The administration's position is that the activities previously exempted in the Treasury Department should be covered by the Federal Reports Act.

Senator CHILES. So, the administration has not bought the arguments that used to be used by IRS why they had to be exempted?

Mr. GRANQUIST. The arguments that were made on behalf of IRS were basically that new tax forms have to be prepared within extremely short time limits. The delays would be extremely important and costly to taxpayers.

They also raised the argument that the tax form is extremely complex and technical and there was not very much that you could do to improve the forms as a result and the third argument, I guess I would say is that the collection of revenue is a unique function and unlike anything else the Federal Government does and, therefore, nobody outside that function should have a role in deciding what information goes in it.

We viewed those arguments as not persuasive. To take the last one first. About everything the Federal Government does in every department is unique from some other department. That is why we have departments.

We do not find that that works against the argument to have some centralized control and oversight on paperwork.

We review lots and lots of forms on a very tight schedule and we have been able to do clearances and do them well in as little as 24 hours.

The important thing is that we get involved up front so we know in the development of the form what is happening. Tax forms are clearly, annually anticipated.

Senator CHILES. You are saying that you will be able to process these forms without unnecessary delays?

Mr. GRANQUIST. We believe we can and we believe that we can show places where we have done that under great time constraints rapidly and effectively and while still reducing the burden.

INDEPENDENT REGULATORY COMMISSIONS

Senator CHILES. As you know, the 1973 amendments to the Federal Reports Act not only transferred clearance authority over the independent regulatory agencies from OMB to GAO, but it authorized the independent regulatory agencies to make the final determination as to the necessity of information in carrying out its statutory responsibilities in whether or not there was a need to collect such information.

Would your position be that if we transferred clearance authority back to OMB, OMB could make that determination?

Mr. GRANQUIST. Well, I think there is a distinction between agencies, between the staff of the agencies and the commissions themselves. We certainly would be very sensitive to setting up a separate category with agency heads who have a quasi-adjudicatory function.

We do not believe, however, for paperwork functions that there is much difference between that and anybody else. If there were some mechanism that provided the commissioners themselves to make some determinations along those lines, we would not object.

Senator CHILES. For the purposes of this bill, do you have any idea how we can define independent regulatory commissions by some means other than listing them one by one?

Mr. GRANQUIST. We labored with the same problem.

For the purposes of the Executive order on regulatory oversight, we call an independent regulatory commission any organizations with multiheaded commissions with substantive regulatory responsibilites whose members cannot be removed except for cause by the President and it is multiheaded.

Mr. MORRIS. There are 18 of those agencies.

PRIVACY

Senator CHILES. Monitoring the Privacy Act is going to become a function of the new Information Management Office if S. 1411 is enacted.

Do you see any problem with an official whose major concern is to reduce paperwork also being in charge of protecting the privacy of individuals?

Are these functions compatible?

Mr. GRANQUIST. Both of those functions are already in OMB, so if there is any incompatibility there now we do not see any.

FEDERAL REFORM

Senator CHILES. To what extent does OMB clear information requests on the Federal Reserve System?

Mr. GRANQUIST. I would like to submit for the record a list of the reports that we now clear. We basically clear reports that do not impact upon the regulatory function of the Fed: on bank information collection, oil and gas reserves, things of that nature.

[The information referred to follows:]

FEDERAL RESERVE SYSTEM

LIST OF ACTIVE REPETITIVE REPORTS
APPROVED UNDER THE FEDERAL REPORTS ACT.
AS OF OCT 31 1979

RPT CLS = REPORT CLASS
RSP TYP = RESPONDENT TYPE
FRQ = FREQUENCY
(SEE HEADER PAGE FOR EXPLANATION OF CODES)

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FEDERAL RESERVE SYSTEM

OMB ID #	REPORT TITLE		RC PL	RT SY TS	F R PP Q	ANNUAL RESPONSES	ANNUAL REPORTING HOURS	LAST ACTION DATE	EXPIRATION DATE
055-R-0003	REPORT OF MEMBER FIRM OF SELECTED SECURITIES EXCHANGES	FR-240	D	2	2	176	616	061379	0580
055-R-0048	COMMERCIAL PAPER REPORTS	FR 2957A, B, & C	C	2	6	6,252	8,139	091379	0882
055-R-0205	DAILY REPORT OF DEALER POSITIONS, TRANSACTIONS, AND FINANCING	FR 2004	C	5	7	8,750	10,938	062179	0680
055-R-0231	OVER-THE-COUNTER MARGIN STOCK REPORT	FR 48	C	2	3	2,400	1,200	020575	1280
055-R-0239	DOMESTIC FINANCE COMPANY REPORT OF CONSOLIDATED ASSETS AND LIABILITIES (MONTHLY REPORT)	FR 2248	D	2	5	960	2,400	122978	1281
055-R-0240	DOMESTIC FINANCE COMPANY REPORT OF CONSOLIDATED ASSETS AND LIABILITIES (QUARTERLY REPORT)	FR 2248A	D	2	4	480	1,440	122978	1281
055-R-0250	MONTHLY REPORT OF NEGOTIABLE ORDERS OF WITHDRAWAL (NOW) ACCOUNTS	FR-2015	D	5	5	17,738	1,774	121378	0180
055-R-0257	FINANCE RATES ON CONSUMER INSTALLMENT CREDIT	FR2419	C	2	4	84 FR 2421 FR 2636	126	011678	1279
055-R-0262	OIL AND ENERGY COMPANY REPORTS	FR 2580, 2581	C	2	2	19	5	011678	1279
055-R-0266	ANNUAL DEALER REPORTS OF CONDITION	FR 2002, 2003	C	2	2	35	2,100	070279	0680
055-R-0267	REGISTRATION STATEMENT, DEREGISTRATION STATEMENT, ANNUAL REPORT	G-1, G-2	A	5	1 G-4	671	1,311	052777	0580

Approved For Release 2007/05/17 : CIA-RDP85-00003R000300050009-7

Senator CHILES. In the case of Federal Reserve System information requests which are exempt and not presently cleared by OMB, why are you persuaded that those activities should also be cleared?

Mr. GRANQUIST. It goes back to what I said earlier, Mr. Chairman, if you want to run a Government-wide effort to reduce paperwork, it seems to me that the premise going in is that it should be inclusive.

Arguments to exclude any agency or any function have to be extremely compelling on some grounds of uniqueness which we do not see in bank regulatory areas any more than we do in energy regulatory areas or any other areas of Government that go out and seek information from regulatory industries.

So, we do not believe that there should be exceptions because of that.

Senator CHILES. Do OMB Budget Divisions get involved in clearing agency reports and then checking on agency clearance controls?

In other words, would this legislation help integrate the implementation of paperwork management objectives with the budget process?

You know my view for the strong M in OMB. If we pass the bill, what do you envision happening?

Mr. GRANQUIST. If the bill, as finally enacted centralizes authority over paperwork in the Federal Reports Act in OMB, I think it will strengthen OMB in general on the M side. I think, if there is an independent office created inside of OMB, it will fragment further the disconnect between budget and management affairs.

Right now, we have got a pretty good system going where budget examiners do get involved in the reports requirements from the agencies.

I am afraid an independent office in OMB would cause a breakdown in this relationship.

INFORMATION LOCATOR SYSTEM

Senator CHILES. What are the estimates of cost of putting the agency locator in place and how long will that take?

Mr. GRANQUIST. My recollection, Mr. Chairman, and I can submit something more exact for the record, is that it will be under $3 million a year. The best estimates I saw from the staff were $2½ million a year.

The best estimates in terms of the test run are April of 1980, systemwide, up and running in total about October 1981.

[The information referred to follows:]

The Federal Information Locator System will cost from $2.5 to $3 million to develop as a prototype system. That figure includes the costs for building, designing, and debugging the central OMB data file. In addition, individual agencies will incur some cost preparing their data for entry into the system. In many cases the agencies already have this done and would merely have to make certain modifications to accomodate the central component.

Our best estimate on the timetable is that we can begin building the prototype system by April 1, 1980. We would then test the system in several government-wide areas, such as small business, procurement, education, housing, or other areas, to check for government-wide duplication and overlap. We believe we can begin developing the operational FILS by November 1980, with the expectation that the gov-

ernment-wide system could be in place and operating a year later—by November 1981.

Senator CHILES. Do you have any estimates about whether there would be any savings for having this information locator in place?

Mr. GRANQUIST. My assumption is yes, there would be. We have done the test run already with Defense Department software. Maybe Mr. Morris can address some of the findings they discovered?

Mr. MORRIS. We tested the Defense Department system in six agencies and the agencies were not the best for identifying duplication but, in fact, we did find several areas where duplication existed, particularly in the contract area.

We have an effort underway now to work with the various agencies so that we can come up with a standardized contract form working with the Office of Federal Procurement Policy that would considerably simplify contractor reporting.

If we can do that, probably that in itself would pay for the system.

Senator CHILES. Well, it would seem to me that at a cost of $2 million to $3 million which you are talking about, it would not take much savings to offset that. If you could stop two or three forms or even one form you might well save that much for the private sector and the rest of the public sector.

Mr. MORRIS. That is clearly correct.

If the Commission on Federal Paperwork's figures on the cost of paperwork are even half accurate, a marginal saving would pay off pretty fast.

RULE 29.5

Senator CHILES. Mr. Granquist, you are familiar with rule 29.5 here in the Senate. I would like to encourage the administration to take a strong role in coordinating agency paperwork assessments on proposed legislation. One of our problems is the quality of what we are getting in rule 29.5. We are getting some compliance now, but I think the quality of the assessment leaves much to be desired.

What do you think of this approach?

Mr. GRANQUIST. We are very sympathetic with that, Mr. Chairman. Raising the level of attention to paperwork in every agency is our goal.

As I said, one of the problems with the system now is that it is at too low a level and when that is the case, you do not get a good product nor impact on legislation.

We are pushing hard to get that into the legislative review process in OMB, when the administration must comment on the bill.

Senator CHILES. Senator Pryor, do you have any questions?

We are delighted to have you with us this morning. We know of your interest in trying to come to grips with the paperwork control.

Senator PRYOR. Senator Chiles, I applaud you for not only fathering this piece of legislation, but also holding this hearing and I think it is most timely.

You were on the front of this battle long before it was popular to be involved in things like this. You have a great record in this

area. I would like to applaud you and your staff for having this hearing today and working in this field.

I would just like to ask one or two questions and you may be asking general questions. And, this question may be more specific than general and if it is, you certainly can supply an answer for the record.

DAVIS-BACON REQUIREMENTS

Back around October 2, I believe, we had a hearing relative to the Davis-Bacon law and the amount of paperwork that the Davis-Bacon law required of contractors and subcontractors, to wit, that involved in any Federal job of construction, every week, not every month or every third month, every week, the subcontractor and the contractor had to fill out the payroll forms, social security withholding, FICA, all of the payroll information, ship those to the contracting agency.

In most instances, it winds up being Washington and the Department of Labor. In most instances, after that, in some warehouse probably in Baltimore. But, a long story short, Mrs. Kreps, in a memorandum that we put in the record, stated that if we could do away with this one provision of the law, if we could abolish that provision, that we would save, I believe, 1 million employee-hours a year.

I have got a bill keeping the same penalties under the law, but simply that would say the contractor would only, under those conditions, state their compliance at the beginning of the contract and compliance at the end of the contract, same penalties prevailing as several.

And, the administration came and testified against that proposal. They think that we need all of this extra paperwork. The Office of Management and Budget would not come and testify or take any position on it and I wonder if you would comment on that this morning?

Mr. GRANQUIST. I would be pleased to submit to you Senator, a more detailed answer that speaks to our administration position on the need for that information.

I can say that inside the OMB in terms of clearance process on individual forms, we have been working to minimize the burden wherever possible and that we have looked at reporting compliance problems in the Davis-Bacon area.

My colleague may be able to add some more to that in terms of the specific review of that form?

Mr. MORRIS. We had a number of discussions with the Labor Department about that on the Davis-Bacon reporting concerned with burden and concerned about ways to minimize it in the most intelligent way possible.

I understand that the Labor Department is also concerned about it and have taken some steps to look at what they can do administratively to reduce the burden.

I have not seen the results of any administrative step yet.

Senator PRYOR. Well, yes. It has been on the statute books for, I think, now 41 years. So, they have had plenty of opportunity to look at it.

USE OF CONSULTANTS

The next area that I am interested in are consultants, the consulting industry, and how we are giving away all of our authority, especially in the executive branch of the Government, to consulting firms that are pretty well running the U.S. Government today, especially the Department of Energy and other departments, the consulting firms are.

I think the consultants have become breeding grounds for an awful lot of paperwork and an awful amount of the regulations that come pouring out of Washington.

Have you hired a consultant to do any studies on that?

Mr. GRANQUIST. I hope not, Senator. The President, about a year and a half ago, expressed the same kind of concern you just expressed. He asked the Office of Federal Procurement Policy to do something about finding out how many consultants there were, what the policies were for employing them, how we distinguish them from other folks around Washington and that led to a rather substantial effort to try to figure out how you define them, where they are, how many are used, et cetera.

I would be pleased to submit to you a report. I do not have it off the top of my head. But, let me say that we also put up guidance to agencies discouraging the use of consultants.

There are always going to be consultants around because we cannot afford to employ all the kind of brainpower to solve the problems we have to solve without half of the people in America working for the Government.

So, from time to time, there will be a need to employ expertise from outside. The important thing is whether or not they become substitutes for policy officials.

That is the kind of consultant you want to knock out. If you want to buy brainpower cheap without putting a Federal employee on the payroll for temporary purposes, that is fine, but the other concern is the pernicious problem.

Senator PRYOR. With respect to the President and the Office of Management of Budget, what really has happened, I am afraid, since the 1977 directive from the President to OMB went out, what I am terribly afraid has happened is nothing. And, I have seen the results, what results there are available of the requests by the President and the response of the Office of Management and Budget and today, I would say that since that time, I imagine we have increased the consulting dollar, I imagine by one-fourth.

Every time we put any kind of a personnel ceiling on the Federal agencies out there, then that is good for the consulting business and that is when the consultants get hired and that is when all the money goes out there.

And, sir, I know that we have got to have consultants, we have got to utilize them. I am in favor of utilizing them. But, I am also very fearful that we have absolutely no checks and balances on consultants, who gets hired, who gets the contracts.

We see those repeat performers out there time and time again and with literally no controls whatsoever. I think in the Department of Energy, the 26 areas of that Department that have the authority to run consulting contracts and I think there is just an

opportunity there for some awful, awful scary things that could develop. And, I see a great number of problems and we are looking into it.

What I was saying, is I think the consultants today are a breeding ground for a lot of the paperwork that we have, a lot of the regulations that come out of Washington, D.C., and we are just abrogating our responsibility and giving our responsibility and responsibilities away and running from them in the executive branch of the Government and giving them to the consultants.

It really is a concern to me. I just wanted to mention that.

Mr. GRANQUIST. I understand.

Senator PRYOR. Once again, Senator Chiles, I applaud you for your effort in this entire undertaking.

Senator CHILES. Thank you.

Thank you, Mr. Granquist. We agree that it is going to take leadership and partnership between the President and Congress, if we are going to reduce paperwork costs to provide a record that will enable the American public to believe that paperwork demands are not out of control.

I think there has been some progress made in OMB, but I think before we can get any measurement of that, there is a lot more to do. We may well have some more questions that we want to ask you for the record.

Mr. GRANQUIST. Thank you, Mr. Chairman.

[The prepared statement of Mr. Granquist follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

For Release on Delivery
Expected at 10:00 a.m.
Thursday, November 1, 1979

Statement of Wayne G. Granquist
Associate Director for Management and Regulatory Policy
Office of Management and Budget
Before the Subcommittee on Federal Spending
Practices and Open Government of The
Senate Governmental Affairs Committee

Mr. Chairman and Members of the Committee:

I am pleased to testify today on Federal paperwork and what we at the Office of Management and Budget are doing to reduce it. Few other topics evoke more public outcry than the amount of time and money the American people expend each year providing or maintaining information for Federal Departments and agencies. In our last published report, we counted 4,916 forms, reports and recordkeeping requirements in use by Federal agencies. Those reports imposed an estimated reporting burden of more than 786 million hours. The forms that account for that reporting burden are: applications, 9%; requests for information in connection with regulatory, financial and other management activities, 13%; program evaluations, research and statistical surveys, 5%; and tax reporting, 73%. The term "burden hours" is an estimate of the average amount of time it takes to gather the information necessary and complete a report form, multiplied by the number of times in a year that the form must be filled out.

No one questions the basic need of the government for information to plan, make policy decisions, operate and evaluate programs, and perform necessary research. The question is rather how much information is essential. The policy of this Administration is to take and support strong actions to reduce the burdens imposed by the collection of information by the Federal government; to ensure that only essential or statutorily required information is collected; and to strengthen the system for controlling and managing paperwork by administrative and legislative actions. From our experience with administering the Federal Reports Act, it is clear that the Legislative and Executive Branches are jointly responsible for the paperwork burden and that both must take action to reduce the amount of information collected from American citizens.

Mr. Chairman, we appreciate your continued efforts at reducing paperwork and, subject to one important reservation, strongly support your proposed legislation, S. 1411. Although we do not support the provisions that would set up a new, statutorily mandated Office of Federal Information Management Policy, we believe your bill, through provisions for a centralized forms clearance process, increased agency responsibility and planning for information requests, and more effective methods to eliminate duplication, is a constructive approach to curbing the government's sometimes insatiable appetite for information. We have made progress in controlling paperwork over the past 2-1/2 hears, but it is our opinion that the Federal Reports Act needs to be strengthened if we are to be truly successful in reducing paperwork to the lowest level and keeping it there.

My testimony today will cover a history of paperwork control, steps the Office of Management and Budget has taken to reduce reporting burden, weaknesses in the current system, a discussion of how we think S. 1411 will contribute to reducing paperwork, and some suggested modifications that we feel may strengthen the government's approach to the paperwork problem.

History of Paperwork Control

Our experience in trying to control paperwork goes back to the Federal Reports Act of 1942. The Act states that:

> "Information needed by Federal agencies shall be obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information, and at a minimum cost to the Government. Unnecessary duplication of efforts in obtaining information through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by a Federal agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public" (44 U.S.C. 3501).

The Office of Management and Budget is responsible for implementing the law. This has been achieved through a centralized review of data collection activities involving 10 or more members of the public.

From the beginning, OMB's ability to control reporting burden has been limited by exemptions to the Federal Reports Act. The 1942 Act excluded certain basic governmental functions, such as, the collection of taxes, management of the public debt and other government financial operations, and supervision of the nation's financial credit system. This means that all of the forms of the Internal Revenue Service and most of the reports of the bank regulatory agencies (e.g., the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Federal Home Loan Bank Board, the Farm Credit Administration, and the Controller of the Currency) are not reviewed by any unit outside the agency. Because of these provisions, almost three quarters of the total public reporting burden is excluded from OMB review.

In addition to these original exclusions, the Congress in recent years enacted other exemptions to the Federal Reports Act or transfers of clearance authority away from OMB.

A 1973 amendment to the Trans-Alaska Pipeline Authorization Act (P.L. 93-153) transferred reports clearance authority from OMB to the General Accounting Office (GAO) for the so-called independent regulatory agencies. The transfer also reduced the authority of the reviewing agency, so that GAO does not have the same degree of authority as existed under the original Act.

In addition, Section 201(e) of the Surface Mining Control and Reclamation Act of 1977 (P.L. 98-87) provides for GAO review of reports of the Office of Surface Mining in the Department

of Interior. Reports that make up 5% of the total reporting burden are included in GAO's inventory and stem from the following agencies: Civil Aeronautics Board, Commodity Futures Trading Commission, Consumer Product Safety Commission, Federal Communications Commission, Federal Election Commission, Federal Maritime Commission, Federal Trade Commission, Interstate Commerce Commission, National Labor Relations Board, Nuclear Regulatory Commission, Office of Surface Mining, and the Securities and Exchange Commission.

The Health Professions Act of 1976 (P.L. 94-484; Section 708(g)) exempted from OMB review certain data collection activities relating to the availability and distribution of health manpower.

The Education Amendments of 1978 (P. L. 95-561) further fragmented the clearance process by transferring review authority from OMB to the Secretary of Health, Education and Welfare for most educational data collection activities (about 2% of the total reporting burden). This law is particularly troublesome because it means that Federal agencies must determine whether or not a report is "education-related" and thus subject to HEW review. This law is the single most grievous weakening of the Federal Reports Act. Because the law affects any Department or agency that requests information from an educational agency or institution, it fragments central oversight, splits individual agency accountability between controlling authorities, and renders it virtually impossible to measure

accurately progress in the President's Paperwork Reduction Program either for the government as a whole or for individual agencies. Neither the Secretary of HEW nor the statutorily established Federal Education Data Acquisition Council have been able to agree upon a definition of an educational program. Accordingly, the exact scope and effect of the transfer is unclear. Mr. Chairman, we appreciate your past efforts to modify this exemption.

We estimate that because of these exemptions only 19% of reporting burden is subject to OMB control under the Federal Reports Act. We believe that the exclusions to the Federal Reports Act have confused accountability for the paperwork problem and made it impossible to identify and control duplicative reporting requirements. We endorse the provision of your bill that would centralize the forms clearance process and thereby implement one of the most important recommendations of the Commission on Federal Paperwork.

Commission on Federal Paperwork

During the 1960's and 1970's several Congressional investigations criticized the excessive paperwork being required by the Federal government and the lack of effective action by OMB. Too often the criticisms produced one-time intensive campaigns, without causing any real change in the way the government managed its information needs.

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In 1974, the Congress established the Commission on Federal Paperwork to carry out an extensive examination of the paperwork problem. To date more than half of the 520 recommendations directed to the Executive Branch have been implemented. About one-third remain for action by March, 1980. We have been working closely with the agencies to ensure that the March, 1980 deadline is met.

President Carter's Reporting Burden Reduction Program

Following through on the recommendations of the Commission on Federal Paperwork is but one part of our efforts to control reporting burden. At his first Cabinet meeting, President Carter announced his intention to establish a continuing program to address the paperwork problem. The President's program focuses directly on the burden of Federal reporting and recordkeeping requirements and uses familiar managerial tools. OMB establishes an overall ceiling on the burden that each Department or agency may impose on the public and the President asks each Department and agency head to set an annual goal for reducing reporting and recordkeeping burdens. We have published three reports that show agencies' progress in achieving their goals. If you have no objection, Mr. Chairman, we request that a copy of the most recent of these reports be placed in the record.

In the first two years of the Carter Administration, the reporting burden levied by Federal agencies subject to the President's paperwork reduction program, has been reduced

almost 15%. This is a net figure that includes both increases and decreases. To help you understand how we have accomplished this, let me describe some specific actions.

There are many ways that OMB reduces reporting burden during the course of a review. We may reduce the number of data items that a respondent must supply. For example, in September of this year, a Department of Energy report from first purchasers of crude oil was simplified, resulting in a 22% reduction in burden. A proposed National Institutes of Health report from program directors or principal investigators was reduced in August through eliminating certain requirements and limiting the amount of information required on research plans resulting in a reduction in reporting of 140,000 hours.

Or we may reduce the frequency of a reporting requirement. For example, the Department of Transportation's "Screening Activities and Arrest Report" used for airport security purposes was reduced in January from monthly to quarterly, resulting in an 18% reduction in reporting burden. At OMB's direction, annual reports imposed by the Veteran's Administration on colleges and universities were changed to biennial reports. This resulted in a savings of 625,000 hours every two years for higher education institutions.

Combining forms is another way we reduce reporting burden. Under OMB leadership, a combined form for the States' quality control reporting systems for Aid to Families with Dependent Children, Medicaid and Food Stamps was developed in

September. Almost 150,000 reporting hours will be saved this year with an estimated 15 states converting to the integrated form and methodology.

Through changes in sample design, establishing size cut-offs, and other measures, we have reduced reporting burden on small businesses. For example, the paperwork burden placed on small businesses by the Occupational Safety and Health Administration has been significantly reduced. 40,000 businesses with fewer than 11 employees no longer have to fill out OSHA's annual survey. In addition, those businesses that do have to comply with OSHA's reporting requirements now are required to provide much less information than was previously required. These two actions combined reduced the annual reporting burden by almost 80% -- from 320,000 hours to 70,000 hours. Similarly, employers, particularly those with small pension plans, have benefited by a 1.4 million hour reduction in ERISA pension plan reporting. No longer does each plan have to refile a plan description (on form EBS-1) when the plan is amended, a significant change from earlier requirements.

Last year, thousands of small contracting firms were relieved of a massive reporting requirement when the Labor Department exempted these employers from having to file monthly employment utilization reports if they were participating in a "home town" plan (such as the Philadelphia Plan) for assuring adequate affirmative action programs. This change resulted in a 90% reduction in the paperwork burden -- from an estimated 1.2 million hours to 120,000 hours.

Many of our reviews that result in reduced burden are a combination of such actions. As a result of OMB review, more than 70% of the proposed reporting burden for States participating in the Community Services Administration's Energy Crisis Assistance Program was eliminated in October. OMB's review brought about major reductions in the proposed reporting burden including a reduction in reporting frequency from biweekly to quarterly. Reporting requirements levied on Community Mental Health Centers were reduced 86% annually by the reduction in frequency of reporting and by the reduction of information required.

Disapproving proposed forms is another way OMB keeps a lid on reporting burden. Of approximately 180 reports acted on last month, OMB disapproved 13%, a marked increase in the disapproval rate of 3.4% for October of last year and the less than 3% cited in a recent GAO report for the time period from January 1975 through June 1978.

Some other recent successes in reducing the amount of information proposed to be collected are:

- The Council on Wage and Price Stability (COWPS) submitted for OMB clearance a revised version of its price/profit monitoring form (PM-1). Industry comments indicated that the proposed revision would significantly increase the reporting burden associated with the form. In October, OMB approved a report that deleted many items, and limited the number of firms that were required to provide the new data elements. The 120,000

hours of burden associated with the approved PM-1 is about half of the burden that have been imposed by the original version.

- The Environmental Protection Agency, within the last week, proposed a revised premanufacture notification rule (PMN) governing information required to introduce new chemicals in the market (part of its toxic substances program). EPA's original proposal contained such burdensome paperwork requirements that it was feared the form would stifle innovation, particularly in small, low volume chemical businesses. EPA's own economic analysis showed that the forms alone could keep from 25% to 75% of new chemicals off the market. The new proposal reduces mandatory reporting from 34 to 13 pages and achieves an estimated 50-60% reduction in the costs to businesses of preparing the forms when compared to the earlier version.

While progress has been made, it is becoming more evident that significant, easy targets of opportunity to reduce reporting burden are diminishing. New legislative requirements in the areas of energy and environmental protection, new policy initiatives to deal with inflation, particularly in the health area, and efforts to reduce fraud and abuse are likely to increase reporting burden. Preliminary review of still incomplete FY 1979 figures indicates that for the first time in this Administration, there was no further decrease in total reporting burden.

Further reductions will be possible only through serious, sustained and innovative efforts in the agencies and constant attention and commitment from agency heads, OMB, the President, and Congress. It is no longer sufficient to attack the symptons of excessive paperwork, it is necessary to attack its causes -- bad regulations, confused and inefficient organization, and flawed legislation.

Regulations and Reporting

The relationship of regulations and reporting burden has become clearer over the past two years. We estimate that over half of total Federal nontax reporting is based on the need to ensure compliance with laws or regulations. It is the fastest growing area of the paperwork problem. The chief characteristics of this reporting are that it is mandatory, usually complex, and frequently requires a considerable amount of the public's time. In part to address this problem, President Carter issued Executive Order 12044 (Improving Government Regulations) in March 1978 to improve the management of the regulatory system and assure that:

- regulations are cost-effective and operate efficiently;
- unnecessary regulations are eliminated or never issued;
- the public is fully involved in developing regulations; and
- rules are written with common sense and in plain English.

The Executive Order requires that an estimate be made of the new reporting burden or recordkeeping requirements necessary for compliance with the regulation.

The public comment feature has been very helpful in identifying potentially burdensome provisions and having alternatives substituted. In addition, the combined responsibility for paperwork and regulations in one division in OMB has been extremely useful in helping to cut down on the burden of Federal regulations.

Our first report on agencies' progress in implementing E.O. 12044 was provided to the President on September 17, 1979. If you have no objection, Mr. Chairman, we request that a copy of this report be placed in the record.

We also have increased our attention to the regulatory and paperwork burden imposed on small businesses. Some examples of improvements in this area are:

- The Food and Drug Administration has set up a program to give special assistance to small businesses that are trying to cope with FDA regulations. Service desks to help manufacturers will be established in East Orange, N. J., Chicago, Atlanta, and Santa Ana, California. Desk officers will help businesses dealing with problems such as: how to fill out applications and other government forms; how to determine what regulations must be followed to market a new product; and how FDA regulations affect manufacturers' products or processes.

- The Agriculture Department has reduced the compliance burden for smaller export firms arising from the grain standards regulations. By increasing the minimum threshold of tons of grain exported, up to 1/4 of the original 200 firms affected by these costly new regulations are exempted from compliance with only a 2% reduction in the surveillance on export grains.

- EPA has implemented a thorough revision of its regulations governing sewerage treatment grants, speeding up processing time for several water and sewer grants by more than a year and resulting in a 30-40% reduction of the paperwork requirement for a small town's grant application.

We are working closely with the Small Business Administration to take a closer look at ways to reduce reporting burden on small businesses. SBA is now monitoring the effects of new and revised regulations on small businesses - both reporting and operating requirements. In preparation for the White House Conference on Small Business, SBA is also developing a catalogue of all paperwork that small businesses must complete. The catalogue is arranged by kind of business; this will provide information from the perspective of the respondent that will be most useful to us and the agencies. We look forward to the results of the White House Conference on Small Business to be held early next year for suggestions on how to repair specific paperwork problems.

Grant- in-Aid Simplification

In September 1977 the President issued a directive to reduce paperwork and red-tape in the grant-in-aid programs to State and local governments. The issuance prescribed that all State and local grant programs must comply with OMB Circular A-102. The circular implements the Intergovernmental Cooperation Act of 1968 (82 Stat. 1101) and establishes standards for consistency and uniformity among Federal agencies in the administration of grants. OMB has been carrying out the President's directive by requiring that grant applications or performance report forms be in compliance with the circular. This has saved immeasurable hours of reporting burden on State and local governments. For example, ACTION successfully achieved a 52% reduction in its reporting burden on the public over the last 9 months by bringing its grant reporting into compliance with OMB Circular A-102 and reducing the number of references necessary for an applicant to become an ACTION volunteer.

Paperwork Implications of Legislation

Since legislative requirements are often the source of extensive data collection activities, we also would hope that before any law is passed, the responsible committee would pare to the bare minimum any new reporting requirement, evaluation study and report to the Congress as required by Rule 29. Your work in establishing and enforcing Rule 29 has been a significant innovation. As I know you agree,

Mr. Chairman, the creation of mountains of paper should not be a criterion for judging a program's success.

New Directions

The paperwork control system is flawed. It is characterized by fragmented and incomplete responsibility for control; a review process that is layered, redundant, and reactive; insufficient public involvement in the design of reporting requirements; absence of a comprehensive and systematic way to identify duplication; and low priority of the reports clearance process at the agency level. The General Accounting Office issued in September of this year a report "Protecting the Public from Unnecessary Federal Paperwork: does the Control Process Work?" (GGD-79-70). The report identifies opportunities for improving the process for controlling Federal paperwork demands on the public and recommends changes in the role played by the Office Of Management and Budget in the process.

We recognize these problems and are taking steps to counter the weaknesses in our process. The President will soon sign an executive order that will start paperwork management in a new direction. The Executive Order is complementary to your legislation. Emphasis will be given to strengthening agency information management, and the agencies will be required to assure more public involvement in the development of

reporting requirements, including comments on how to minimize the burden of paperwork on individuals and small institutions. In addition, it will implement some of the most far-reaching of the Commission on Federal Paperwork recommendations.

The Executive Order will provide for: sunset of new forms within two years of initial use and of all forms every five years; a Federal Information Locator System (FILS) to identify and eliminate duplicative reporting requirements, and the development of comprehensive agency plans covering all requests for information. Such plans will include the purpose of each information request, the estimated reporting burden to be imposed, and identify the respondent group. The plan will be used by OMB to establish an agency paperwork budget.

We can and will take these first steps; to do more requires action by Congress. Since Congress stated general policy on paperwork for the first time in the Federal Reports Act in 1942, every significant statutory change regarding paperwork has had the effect of weakening this policy. It is time for Congress to reaffirm and strengthen the policy of restraining Federal paperwork.

Paperwork and Redtape Reduction Act S. 1411

As I stated earlier, to be successful in this area requires a partnership between Congress and the Executive. We view your

assistance on paperwork matters and your proposed legislation as the type of support and involvement needed from all members of Congress.

Better management to reduce the burden on individuals, small business, and other respondents requires a centralized, comprehensive authority. It is essential that no agency be exempt from oversight and that authority over Federal paperwork not be splintered among several agencies as it is now. For example, the success of the information locator system in identifying duplicative requests for information hinges upon that system covering the information requests of all Departments and agencies.

I know that you may hear concerns from the independent regulatory agencies about OMB review. However, OMB had responsibility for review of these forms for 31 years prior to the Trans-Alaska Pipeline Authorization Act. We know of no instances of misuse of that authority, unwarranted delay in exercising our authority, or interference or threats to the agencies' independence. In fact, by special arrangement, we approve for the International Trade Commission, a strong independent agency, dozens of reports each year on a two day turn around basis. Already OMB approves more than a score of reports from the banking agencies, including the Federal Reserve Board, that collect non-bank supervisory information. Many of these reports collect vital economic information used by these agencies in making key policy decisions. We know of few complaints on the part of these agencies with our review process.

Nor do we feel that our performance in reviewing reporting requirements levied on the education community was unacceptable. We agree that centralized review of tax forms is essential to a credible paperwork control program and would contribute to the development of tax forms that are less burdensome and easier to understand. Therefore, we see no reason to treat some agencies or types of reports differently.

As I mentioned at the outset, we do have concerns with the proposed establishment of an Office of Federal Information Management Policy (OFIMP) responsible for government-wide oversight of paperwork, statistical policy, and Privacy Act functions, headed by a Presidential appointee confirmed by the Senate.

First, we fear that such an appointee would be viewed as downgrading the level of the Administration's spokesperson on paperwork reduction from the Director to the head of a component of OMB.

Second, we are concerned about the public's reaction to establishing a new office. We are afraid that it might be perceived as the typical government response to a problem - create another bureacracy. We believe it would be much better to change existing agencies and current practices in order to obtain a lasting effect on paperwork.

Third, the establishment of the new office would separate paperwork reduction and information coordination from

OMB'a other responsibilities, including regulatory reform oversight, grant consolidation efforts, program evaluation, and legislation and budget oversight. In our view this would force the unit to focus on the symptoms, not the causes of paperwork. We do not want to build a "Chinese Wall" between those concerned with reducing paperwork and those concerned with minimizing the other burdens imposed on taxpayers and the private sector.

We fully inderstand your concern about ensuring sufficient attention to and resources in OMB for paperwork control. We are adding 13 new positions to our paperwork and regulatory reform office. We believe OMB will be well prepared to implement the changes that the executive order and your legislation will bring to paperwork control.

We also understand your concern about holding OMB accountable for performance. To assure OMB accountability to Congress, we would support provisions in the bill to:

- require OMB to provide an annual report to Congress on resource allocations, accomplishments, and plans for paperwork management in OMB and the agencies; routine GAO assessment of this report could be stipulated;

- set milestone dates for completing key tasks, such as implementing the Federal Information Locator System, making needed organizational and resource changes in the agencies, performing a zero based review of all existing paperwork requirements, and

proposing legislative changes based on what we learn in such a review; and

- extend the date for OMB oversight of the implementation of the Federal Paperwork Commission recommendations for an additional two years.

Mr. Chairman, we believe we have made significant progress in this Administration in reducing the amount of paperwork imposed on the American people, and we are proud of that. To continue this progress and ensure sustained attention to control of paperwork in the future requires further steps. We have made and are making important changes in the way we carry out our existing responsibilities. The Congress has its turn now to reaffirm and strengthen its policy toward control of paperwork. We endorse the thrust of S. 1411. We agree that comprehensive, unified responsibility for paperwork control should be placed in OMB. We welcome the opportunity you have given us to work with the Congress, and will be pleased to cooperate with you and your staff in developing specific language to resolve your concerns with accountability and resources.

Thank you very much for the opportunity to present the views of the Administration on this bill.

I would be pleased to answer any questions that you may have.

Senator CHILES. Now, we will hear from Hon. J. Charles Partee who is Governor of the Federal Reserve.

TESTIMONY OF J. CHARLES PARTEE, MEMBER, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. PARTEE. I am pleased to appear before the committee today to present the views of the Federal Reserve Board on S. 1411. The Board is sympathetic with the general objective of the bill—to reduce paperwork and to put effective controls on the process of imposing reporting and recordkeeping requirements on the public. Reporting burdens have grown sharply over the years and there can be no question of the need for stern discipline on agency reporting activities. As a matter of proper procedure, all statistical initiatives should be required to demonstrate (a) that there is a pressing need for every piece of information requested; (b) that there are no unnecessary duplicative collection efforts; (c) that information is asked for in the most efficient and least burdensome manner; and (d) that existing data sources, from whatever agency, have been utilized to the extent feasible.

DATA COLLECTION CONTROLS

The Federal Reserve has always endeavored to conduct its data collection efforts with this kind of discipline. Over the years we have strengthened and intensified our report controls. Since 1975, we have had in place a comprehensive system of clearance procedures. These procedures are reviewed periodically, and any changes in clearance standards promulgated by Executive order or by OMB guidelines have been incorporated in our program to the extent appropriate.

Our program applies both to proposals for new reports and to all existing reports. Under the program, every Board reporting series is periodically reexamined on a zero-based approach to see whether it can be eliminated, cut back with respect to contents or reporting panel, or otherwise improved with respect to reporting burden. Every Board report is subjected to critical review at several levels and must be justified in detail before it is adopted or renewed. We devote a substantial amount of resources to this program, which is coordinated at the senior staff level. Moreover, the program involves active participation by several members of the Board, and the final decision on all report proposals is made by the Board as a whole. We believe that our program for the control and review of reporting is one of the most comprehensive in the Federal Government, and we are confident that it would meet and surpass, the program and procedural criteria set forth in section 3504(c)(2) of the bill.

REPORTING BURDEN REDUCED

We have had good success in recent years with the Board's program of reducing reporting burden. From the end of 1975 to midyear 1979, we managed to reduce by almost 25 percent the total number of items of information reported to us on all our reporting forms—other than those directly related to the accounting for deposits subject to reserve requirements. This total is measured by

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taking the number of items of information on each report multiplied by the number of respondents and the frequency of reporting within a year and then aggregated for all reports. I should hasten to add that we do not expect to be able to continue this rate of net reduction. Given new legislation, new supervisory and monetary policy needs, and the fact that we have completed the first cycle of review of existing reports, I would anticipate that we have already accomplished most of the net reduction possible for now. Nevertheless, the Board's clearance and review program will continue to insure that reporting burdens are kept to the minimum consistent with the effective discharge of our responsibilities.

While our statistical clearance procedures incorporate appropriate OMB clearance guidelines and standards, the reports collected by the Board from banking institutions that are used for supervisory purposes have been exempt since 1942 from submission to OMB for approval under the Federal Reports Act. The banking supervisory reports of the Comptroller of the Currency and the FDIC are also exempt. According to the legislative history of the Federal Reports Act, the exemption was intended to insure that the Bureau of the Budget—OMB's predecessor—would not be able to prohibit the banking agencies from independently collecting information with respect to the banks they supervise if they determined that the direct collection of such data was necessary. Among the reasons for such treatment are: One, the sensitivity of such supervisory information and of the examination process; two, the necessity at times of obtaining information quickly in response to urgent policy needs; three, the highly technical content of much of the data that needs to be obtained; and four, the fact that many of the data collection activities and recordkeeping requirements of the Federal banking agencies are based on specific statutory mandates.

KEEPING EXEMPTION

The Board believes that the rationale underlying the current exemption of banking reports from submission to OMB remains operative, particularly in view of our own rigorous report clearance and review procedures. Retention of the exemption is necessary to insure the continued and unhindered capability of the financial supervisory agencies to collect information they regard as essential for maintaining the soundness of the banking system. Involving the proposed Administrator for statistical management in the clearance of reports collected from banking institutions would seem to serve no constructive purpose. At a minimum, such involvement would raise serious problems in view of the sensitivity of the data and would necessarily occasion delays that could interfere with the effective discharge of our responsibilities.

I am aware that a section of the proposed bill (3509(a)(3)) contains an "override" provision that would enable the Board, by a two-thirds vote, to void the Administrator's disapproval of a proposed reporting requirement and that another section (3511(b)) would permit the Administrator to "delegate his power to approve proposed information requests" to any agency under certain conditions. But neither of these provisions is a workable substitute for the continuation of the current exemption. The exercise of the

override could involve a significant lapse of time since some of the specified procedures for submitting a request to the Administrator may be quite time consuming and, in addition, the Administrator is given up to 90 days to render his decision. Similarly, use of the "delegation" provision would be at the discretion of the Administrator and there can be no commitments in advance as to whether or on what conditions it would be utilized.

Aside from the substantive merits of preserving the current exemption of banking reports from any centralized clearance process, the Board submits that S. 1411 would grant authority to the Administrator in terms so broad as to raise concern that it might constitute an undue and unwarranted invasion of our statutory responsibilities. For example, under section 3515, the Board's authority "under any other law" to describe policies, regulations, or procedures in connection with information requests would be subject "to the authority conferred on the Administrator" and section 3516 would make all existing policies, regulations, or procedures in connection with information requests subject to repeal, amendment, and supersession by the Administrator. It is difficult to assess the consequences of these sweeping provisions without detailed analysis of all statutes related to the Board and the policies and regulations adopted under those statutes. But it seems clear to us that these provisions go beyond a reasonable grant of authority consistent with the specific purposes of the legislation.

PRIVACY CONCERNS

There are a number of specific provisions with respect to privacy and availability of data that are of some concern. For example, section 3518(b), which lists the conditions under which information obtained by one Federal agency may be released to another Federal agency, would seem to prevent or delay the Board in referring evidence of criminal violations of law obtained during the course of a bank examination to the Department of Justice. Such referrals of information are specifically provided for under the Right to Financial Privacy Act (see 12 U.S.C. 3412(a)).

Similarly, the Right to Financial Privacy Act (see U.S.C. 3412(d)), authorizes the exchange of examination or other information among financial supervisory agencies, notwithstanding the act's basic prohibitions on the transfer of such information. S. 1411, in section 3518(b), does not include a similar provision and could impede or eliminate the sharing or exchange of examination material among the Board, Comptroller of the Currency, and FDIC.

Section 3519(a) removes all sanctions for failure to provide information to a Federal agency unless collection of the information has been approved by the Administrator. This provision would appear to deny the possibility of applying legal penalties for the failure to provide information in cases where the Administrator's disapproval of the collection of information is overridden by a two-thirds vote of the members of an independent regulatory agency, or where the Administrator's approval is implied by his failure to respond to an agency request within the specified time limit. The possibility of legal sanctions should be available in such cases.

ADMINISTRATIVE PROVISIONS

There are also some administrative provisions of the bill that are troublesome to us in that they appear to be inconsistent with the Board's independent status under the Federal Reserve Act. For example, section 3504 would appear to give the Administrator responsibility for setting certain aspects of budget and management policies for all agencies covered by the bill. For the Board, this would involve areas placed within its discretionary authority by statute. Similarly, section 3513 appears to us to be too broad, both with respect to the Administrator's possible use of Board personnel and resources and with respect to his access to information and records in the Board's possession. As worded, these sections will likely give rise to problems more serious than those they are intended to solve.

I would like also to comment on some technical operating aspects of the bill that could have serious effects on the operation of the Federal statistical system. One operational problem arises in connection with section 3509(b), which sets a 2-year approval time limit on all new reports. This appears too restrictive and probably an inappropriate detail for legislation. There will be new reports for which an approval for more than 2 years is entirely appropriate. Moreover, our own experience is that, given the length of time required to go through all the steps of a rigorous clearance process, a universal 2-year limit may prove costly and inefficient.

Another operational problem arises in connection with title II of the bill. That title would establish, with detailed specification, a "Federal Information Locator System" and section 3509(a) would require its use. We have had some experience in related types of procedures for the description and specification of banking data, though of course not on the scale mandated here. On the basis of our experience, it appears that development of a Federal information locator system as comprehensive as that called for by the bill would be an extremely complicated task and may in the end prove unworkable. For now, any legislation with respect to such a system might better mandate a program of experimental and development work, including the question of whether it is likely to be cost-effective service. Such experimental work should include investigation of the alternative of having separate systems for different families of statistics that could be geared to the characteristics of each family. Even so, it is likely to require a great deal of time and effort to obtain a clearer picture of what a practical operational system would look like and to provide an informed appraisal of its probable costs and benefits. Our experience with similar types of systems on a smaller scale has impressed us with the enormous costs and difficulties involved in designing a comprehensive system and in trying to force different kinds of data into a standard format. Again, considerable developmental work seems called for before such a sweeping and costly system is required as a matter of law.

That concludes my statement, Mr. Chairman. I will be glad to try to answer your questions.

Senator CHILES. Thank you very much, Governor.

To what extent does the Board's clearance and review already involve OMB clearance of information requests and what has been your experience with this OMB rule?

Mr. PARTEE. We have a relatively small number of reports involving nonbanking institutions or private people that do require OMB clearance. They have always required OMB clearance and we, of course, obtain that clearance before proceeding to collect the information.

It is no great problem to us with the very small volume of data that we have collected that way; and it has become a less substantive kind of discussion over the years with OMB than it used to be as to the content, character, and quality of the reports that we get.

Senator CHILES. Then, over the years, OMB has decided that you know what you are seeking in those reports and thus they do not have to go into the substance of them?

Mr. PARTEE. We do not usually have anything new in that area but sometimes there is something different. For example there was a consumer survey, conducted for us by the University of Michigan a couple of years ago that required OMB clearance, but our regular continuing reports that require OMB clearance have changed only occasionally over this period of time.

FOUR REASONS

Senator CHILES. Let me ask you about the four reasons that you cite for maintaining the present exemption of certain activities within the Federal Reserve System.

One, you listed sensitivity, and two, the necessity to obtain information quickly and, three, your technical content of your data and, four, the specific statutory mandate.

It seems to me that nearly any of the agencies covered by the clearance process, particularly the independent regulatory commissions subject to GAO clearance could all raise these same issues. They are all dealing with something sensitive. They all have a necessity or I am sure they too must have the information quickly.

It is all technically complex depending on what the agency is and they all have their statutory requirements.

Mr. PARTEE. I agree that it is a listing that could be generally utilized and I suspect you will hear that from other agencies as well. In this connection, we noticed that there is no fast-track alternative in the system as proposed to take care of situations where a very fast response is needed.

For example, a few weeks ago the Federal Reserve initiated some changes in monetary policy. They involved the imposition of a marginal reserve requirement on managed liabilities that took effect immediately and that required reports in order to determine what the amount of reserves would be within 2 weeks.

Now, how could we clear that through the statistical Administrator? We could not tell him or her beforehand that we were planning to do it because it is a matter of great confidentiality. So, he or she could not know until after we had taken the action and by then it would have been too late to process a report request since the reports had to be ready to go out immediately to the Reserve

Banks and the member banks in order to implement the policy adopted.

That is, perhaps, an extreme example, but it seems to me there are many developments that occur in the financial sector that require a prompt response in terms of learning something about the situation. And the procedures provided in the bill are too ponderous and cumbersome to make that possible.

Senator CHILES. Well, we thank you very much for your testimony. We will certainly consider it.

Mr. PARTEE. Certainly. Thank you very much.

INDEPENDENT REGULATORY PANEL

Senator CHILES. We will now hear from a panel of independent regulatory agencies, the Honorable Tyrone Brown, the Commissioner of the Federal Communications Commission and the Honorable John R. Evans, the Commissioner of the Securities and Exchange Commission.

I understand Mr. Evans has some kind of a time problem. If that is true, we will take you first.

Mr. Evans, we will print your statement in full in the record. You can proceed.

TESTIMONY OF JOHN R. EVANS, COMMISSIONER, SECURITIES AND EXCHANGE COMMISSION

Mr. EVANS. On behalf of the Securities and Exchange Commission, I am pleased to testify today on S. 1411, the Paperwork and Redtape Reduction Act of 1979.

The Commission strongly supports the goal of reducing the paperwork and reporting burdens on the public. Responding to legitimate expressions of concern from the business community, many of the Commission's recent regulatory initiatives have been designed to reduce these types of burdens, especially on small firms.

We fully support the provisions of the bill dealing with interagency cooperation and coordination as an appropriate means of pursuing these goals.

OMB REVIEW

We have serious concerns, however, about the provisions of the bill that would establish a system of review of the Commission's information collection actions by the Office of Management and Budget. These provisions would be inconsistent with the oftenstated congressional policy to preserve the Commission's policymaking independence and could impose burdens and delays on the administrative process that would outweigh any possible benefits.

Moreover, these provisions are needlessly vague in certain respects and might be construed to establish a basis for a person subject to our jurisdiction to disregard or even delay essential filings or reporting requirements mandated by Congress.

Unless the bill is changed to meet these concerns, we cannot support its adoption.

At the outset, I must emphasize that information collection by Government agencies serves many different purposes. Some information is for research purposes, perhaps with a view toward con-

sideration of future legislation, rulemaking, or other administrative action. Other information is collected from regulated entities for use in enforcing the law, and to assure that such entities are not conducting themselves in a manner inconsistent with the public interest.

Finally, and perhaps of most importance to the Commission, information is collected that forms a basis for disclosure to the public.

For example, filings pursuant to the Federal securities laws by issuers of securities are designed for use by persons making investment decisions.

Congress has made the determination that the public is entitled to complete and accurate disclosure in order to make informed investment decisions.

In collecting information disclosed by issuers and by persons subject to our regulatory jurisdiction, the Commission is assuring that this information is available and to a large degree, serves simply as a repository for data that is intended for use of the investing public.

In our view, the definition of collection of information in the Federal Reports Act under current law is limited to collection for statistical purposes and does not authorize review of disclosure or enforcement related information gathering.

By contrast, the definition of "collection of information" in section 3502 of this bill which makes any request for information to 10 or more persons in a standard form subject to the approval provisions of the bill appears to be far more extensive. This expansion of the scope of the Federal Reports Act is of major concern to us.

We do not think that the purpose of the bill is, or should be, to subject the Commission's disclosure and enforcement efforts to oversight by the Office of Management and Budget. We do not believe, for example, that OMB should determine whether information about corporate officers and the company ought to be disclosed in a proxy statement.

BROAD DEFINITIONS

The definition of "collection of information" is so broad, however, that it could be read as encompassing this information which is collected on standard statutory authorized forms.

To take another example, in the course of enforcement actions or investigations of possible violations of the securities laws, the Commission's staff might pose identical questions in written form to more than 10 persons. Read literally, the bill would require submission of these interrogatories to OMB for approval. The disruption of important Commission activities that could result. The overly broad definition of "information collection" is the basis of our fundamental concern about the possible impact of the bill.

An independent regulatory agency like the Commission is currently not and should not be subject to policy or procedure review by the executive branch. But, on this very point, the bill would create substantial confusion.

Section 3509 would prohibit an agency from using a standard form for information collection unless the Administrator of the

Office of Federal Information Management Offices has approved the proposed information collection request.

The need to preserve some agency independence is recognized by providing in paragraph (a)(3) of the section that an independent agency can override the administration's decision by a two-thirds vote, although a simple majority override would seem to satisfy fully the bill's objectives.

On the other hand, section 3507, with no provision authorizing the agency to override this decision, would allow the Administrator on his own motion to prohibit absolutely any information that he finds "unnecessary for any reason" or, that does not have practical utility to the agency.

The relationship between proposed sections 3507 and 3509 is, at best, difficult to understand. The extensive and apparently unlimited review power given to OMB in section 3507 would seem to make the protections afforded in 3509 relatively meaningless.

Moreover, the standards in section 3507 demonstrate that it should not apply to the Commission's requirements for disclosure to the public. These standards are based on the Government's need for information, but Commission disclosures are based on the need of the public for the information; the information does not have practical utility to the Commission, but rather to the public.

ADMINISTRATOR'S ROLE

There are a number of both practical and policy-related difficulties with the review authority given by section 3507 to OMB. It is unlikely that the Administrator of the Office of Federal Information Management Policy would expect or even particularly be familiar with the field of securities regulations. Yet any judgment as to the need for information collected can be considered only in the context of the agency's full regulatory program.

The Administrator could not develop the expertise necessary to make such judgments unless he assembled a large staff. Even then, that staff could not obtain day-to-day experience with the workings of the securities industry and with the ongoing administration of the Federal securities laws and rules thereunder, that should form the basis of any judgments about the necessity of disclosure and regulatory proposal.

By allowing the Administrator under supervision of the White House, to second-guess decisions about the need for information collection, and possibly overrule them on grounds unrelated to investor protection, the Commission's independence as a regulatory agency would be inappropriately impaired. We note that OMB's power under the bill is extremely expansive.

Section 3507 permits the Administrator to base decisions on the need for the information and its "utility" for the agency. OMB is given rulemaking authority to carry out the supervisory functions in section 3511. And, sections 3515 and 3516 provide that the Administrator's authority under the bill supersedes existing laws and regulations to the extent that any conflict arises.

The dangers posed by this sort of oversight power are particularly significant in the Commission's case since, as noted above, information collection is the basic means of assuring full disclosure of

material corporate information which is the Commission's primary statutory responsibility.

Moreover, we do not believe that such review would provide any redeeming benefits. Although designed to streamline the Government process the bill paradoxically sets up an additional layer of interagency review that would create additional paperwork and delays in inplementing or continuing regulatory programs.

The Commission usually receives comment from the public on the collection burden in response to the initial proposal of disclosure rules and a subsequent hearing would be unnecessary duplication.

In addition, there could be judicial review of the Administrator's decision, which would also contribute to disruption and delay.

Since approval by the Administrator has only a 2- or 5-year duration, this burden would be compounded as agencies continuously submit and resubmit their rules and requirements for approval.

POSSIBLE NONCOMPLIANCE

The Commission is also concerned that section 3519(a) appears to allow a reporting entity to refuse to provide information to the Commission, and, I am quoting, "Unless the collection of information has been authorized" under the standards set forth in the bill.

Such a provision is likely to encourage noncompliance or delay in fulfilling important regulatory functions under the pretext of raising technical or procedural deficiencies in the approval process. The Federal courts would be forced to decide the disputes, adding unnecessarily to their dockets.

Again, we must emphasize that the Commission's statutory responsibilities often depend on information collection.

As for section 3519(b), we believe it would be contrary to the public interest and wholly inconsistent with the intent of the Federal securities law to enable persons subject to those laws to insist that the Commission may not deny them a "right, privilege, priority allotment or immunity" because of an alleged failure of the Commission to comply with requirements of the bill.

We believe that the limiting phrase, "except where the [right or privilege] is legally conditioned on facts which would be revealed by the information requested" is meant for situations that would arise under Federal securities laws, but the language is extremely vague.

We assume that issuers of securities could not assert noncompliance by the Commission as a basis for refusing to submit essential information and then offer and sell securities to the public without accurate disclosure.

It is less clear whether a broker dealer registered under the Securities Exchange Act of 1934 might refuse to notify the Commission of a dangerous reduction in net capital, as required by Commission rules, because of an alleged failure by the Commission to comply with the procedures mandated by the bill.

Finally, we are concerned with section 3518(b) dealing with unlawful disclosure of information. The Commission would be prohib-

ited from releasing information collected "under this chapter" to another agency, except under specific conditions.

Given the breadth of the definition of information collected "under this chapter," this provision would lead to the result of placing restrictions on our release of information that was collected for the very purpose of public disclosure.

In conclusion, it is our belief that although S. 1411 may make sense as a bill intended to apply to research type statistical data, it makes little sense as it applies to information that is disclosure or enforcement oriented or to reporting obligations of regulated industries imposed by statute.

Accordingly, we strongly recommend that S. 1411 be amended to narrow the definition of "collections of information" exclude reporting required in connection with statutory authorized regulatory enforcement or oversight efforts.

In any event, section 3507 should be revised to permit an agency to override the Administrator's decision to prohibit certain information collection activities along the same lines as section 3509, and section 3519, dealing with refusal to provide information, should be deleted from the bill entirely.

I appreciate this opportunity to present the views of the Commission on this bill and would be pleased to try to respond to any questions that you might have.

Senator CHILES. Thank you, sir.

[The prepared statement of Mr. Evans follows:]

STATEMENT OF THE HONORABLE JOHN R. EVANS, COMMISSIONER, UNITED STATES SECURITIES AND EXCHANGE COMMISSION, ON S. 1411

November 1, 1979

On behalf of the Commission, I am pleased to testify today on S. 1411, "The Paperwork and Redtape Reduction Act of 1979." The Commission strongly supports the goal of reducing the paperwork and reporting burdens on the public. Responding to legitimate expressions of concern from the business community, many of the Commission's recent regulatory initiatives have been designed to reduce these kinds of burdens, especially on small firms. */ We fully support the provisions of the Bill dealing with inter-agency cooperation and coordination as appropriate means of pursuing these goals.

We have serious concerns, however, about the provisions of the Bill that would establish a system of review of the Commission's

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*/ As just one example, the Commission recently simplified registration and reporting procedures for small businesses through the adoption of Form S-18. This form is available to certain domestic and Canadian corporate issuers who are not subject to the Commission's continuous reporting requirements for the registration of securities to be sold for cash not exceeding an aggregate offering price of $5 million. The form calls for less narrative and financial disclosure than Form S-1, the standard registration form. The form may be filed with the regional offices of the Commission, in order to facilitate handling for the issuer. Also, pursuant to corresponding amendments to Form 10-K (the annual report for certain publicly-held companies under the Securities Exchange Act of 1934), issuers may include in their initial annual report information substantially similar to that included in their Form S-18 registration statement.

information collection actions by the Office of Management and Budget. These provisions would be inconsistent with the often stated Congressional desire to preserve the Commission's policy-making independence, and could impose burdens and delays on the administrative process that outweigh any possible benefits. Moreover, these provisions are needlessly vague in certain respects, and might be construed to establish a basis for persons subject to our jurisdiction to disregard or delay essential filing and reporting requirements mandated or authorized by Congress. Unless the Bill is changed to meet these concerns, we cannot support its adoption.

At the outset, I must emphasize that "information collection" by government agencies serves many different purposes. Some information is collected purely for research purposes, perhaps with a view toward consideration of future legislation, rulemaking or other administrative action. Other information is collected from regulated entities for use in enforcing existing law, and to assure that such entities are not conducting themselves in a manner inconsistent with the public interest. Finally — and perhaps of most importance to the Commission — information is collected that forms the basis for disclosure to the public. For example, filings pursuant to the federal securities laws by issuers of securities are designed for use by persons making investment decisions.

Congress has made the determination that the public is entitled to complete and accurate disclosure of material information in order to make informed investment decisions. In collecting information disclosed by issuers, and by persons subject to our regulatory jurisdiction,

the Commission is assuring that this information is available, and to a large degree serves simply as a repository for data that is intended for the use of the investing public.

In our view, the definition of "collection of information" in the Federal Reports Act under current law is limited to collection for statistical purposes, and does not authorize review of disclosure or enforcement related information gathering. */ By contrast, the definition of "collection of information" in Section 3502 of this Bill, which makes any request for information to ten or more persons in a standard form subject to the approval provisions of the Bill, appears to be far more extensive. This expansion of the scope of the Federal Reports Act is of major concern to us. We do not think that the purpose of the Bill is, or should be, to subject the Commission's disclosure and enforcement efforts to oversight by the Office of Management and Budget. We do not believe, for example, that OMB should determine whether information about possible self-dealing between corporate officers and the company ought to be disclosed in a proxy statement. The definition of "collection of information"

*/ Although the current statutory language is somewhat ambiguous, the legislative history of the Act makes plain that the scope of the Act is relatively narrow. Accordingly, the Commission has taken the position that, within the meaning of the Federal Reports Act, the Commission does not "conduct or sponsor the collection of information" in connection with the Commission's implementation of the disclosure requirements of the federal securities laws, in connection with the exercise of the Commission's regulatory responsiblity or, generally, in connection with the Commission's enforcement activities. On the other hand, to the extent that the Commission gathers information having primarily statistical significance, the Commission has always recognized its responsibilities under the Federal Reports Act.

is so broad, however, that it could be read as encompassing this information, which is collected on standard, statutorily authorized forms. To take another example, in the course of an enforcement action or an investigation of possible violations of the securities laws, the Commission staff might pose identical questions, in written form, to more than ten persons. Read literally, the Bill would require submission of these interrogatories to OMB for approval. The disruption of important Commission activities that could result is obvious.

The over-broad definition of "information collection" is the basis of our fundamental concern about the possible impact of the Bill. An independent regulatory agency like the Commission is currently not, and should not be, subject to policy or procedure review by the Executive Branch. But on this very point, the Bill would create substantial confusion. Section 3509 would prohibit an agency from using a standard form for information collection unless the Administrator of the Office of Federal Information Management Policy has approved the proposed information collection request. The need to preserve some agency independence is recognized by providing in paragraph (a)(3) of this section that an independent agency can override the Administrator's decision by a two-thirds vote, although a simple majority override would seem to satisfy fully the Bill's objectives. On the other hand, Section 3507, with no provision authorizing the agency to override his decision, would allow the Administrator, on his own motion, to prohibit absolutely

any information collection activity that he finds "unnecessary, for any reason," or that it does not have a "practical utility" to the agency. The relationship between proposed Sections 3507 and 3509 is, at best, difficult to understand. The extensive and apparently unlimited review power given to OMB under Section 3507 would seem to make the protections afforded by Section 3509 relatively meaningless.

Moreover, the standards in Section 3507 demonstrate that it should not apply to the Commission's requirements for disclosure to the public. These standards are based on the Government's need for the information. But Commission disclosures are based on the need of the public for the information; the information does not have "practical utility" to the Commission, but rather to the public.

There are a number of both practical and policy-related difficulties with the sort of review authority given by Section 3507 to OMB. It is unlikely that the Administrator of the Office of Federal Information Management policy would be an expert - or even particularly familiar - with the field of securities regulation. Yet any judgment as to the need for information collected can be considered only in the context of the agency's full regulatory program. The Administrator could not develop the expertise necessary to make such judgments unless he assembled a large staff. Even then, that staff could not obtain the day-to-day experience with the workings of the securities industry, and with the ongoing administration of

the federal securities laws and rules thereunder, that should form the basis of any judgments about the "necessity" of disclosure and regulatory proposals.

By allowing the Administrator, under the supervision of the White House, to second-guess decisions about the need for information collection, and possibly overrule them on grounds unrelated to investor protection, the Commission's independence as a regulatory agency would be inappropriately impaired. We note that OMB's power under the Bill is extremely expansive. Section 3507 permits the Administrator to base his decision both on the need for the information and its "utility" for the agency. OMB is given rule-making authority to carry out its supervisory functions in Section 3511. And Sections 3515 and 3516 provide that the Administrator's authority under the Bill supersedes existing laws and regulations to the extent that any conflict arises. The dangers posed by this sort of oversight power are <u>particularly</u> significant in the Commission's case, since, as noted above, information collection is the basic means of assuring full disclosure of material corporate information, which is the Commission's primary statutory responsibility.

Moreover, we do not believe that such review would provide any redeeming benefits. Although designed to streamline the government process, the Bill paradoxically sets up an additional layer of inter-agency review that would create additional paperwork and delays in implementing or continuing regulatory programs. The Commission usually receives comment from the public on the collection burden

in response to the initial proposal of disclosure rules, and a subsequent hearing would just be unnecessary duplication. In addition, there could be judicial review of the Administrator's decision, which also would contribute to disruption and delay. Since approval by the Administrator has only a two or five year duration, this burden would be compounded as agencies continuously submit and resubmit their rules and requirements for approval. */

The Commission is also concerned that Section 3519(a) appears to allow a reporting entity to refuse to provide information to the Commission "unless the collection of the information has been authorized" under the standards set forth in the Bill. Such a provision is

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*/ Perhaps our concerns on this point can be illustrated best through an example. The Commission recently adopted new simplified registration and reporting obligations for small businesses through Form S-18. Among other things, this form requires disclosure through a description of the company's properties, its business, legal proceedings in which it is involved, etc. Under the Bill, this form would be reviewed by OMB. Upon submission, the Administrator might simply approve the request, thereby confirming the Commission's judgment. This would merely constitute a delay in the Commission's rule-making effort. On the other hand, he could decide that such information is not sufficiently material to investors to warrant the reporting burden. We submit that the latter sort of judgment is a securities law question, not a paperwork question, and is one that the Administrator should not be empowered to make. Of course, our concern here would be alleviated if both Sections 3507 and 3509 make clear that independent agencies can override the Administrator's decision. But, then, what would the Bill accomplish, other than delay and additional administrative burdens and expense, (which, incidentally, will be paid by the taxpayers)? If the only relevant input from OMB is whether the information can be obtained elsewhere, with less burden on the public, this can be done through less cumbersome and disruptive channels.

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likely to encourage non-compliance or delay in fulfilling important regulatory obligations under the pretext of raising technical or procedural deficiencies in the approval process. The federal courts would be forced to decide these disputes, adding unnecessarily to their dockets. And again, we must emphasize that the Commission's statutory responsibilites often depend on information collection.

As to Section 3519(b), we believe it would be contrary to the public interest and wholly inconsistent with the intent of the federal securities laws to enable persons subject to those laws to insist that the Commission may not deny them a "right, privilege, priority, allotment or immunity" because of an alleged failure by the Commission to comply with the procedural requirements of the Bill. While we believe that the limiting phrase "except where the [right or privilege] is legally conditioned on facts which would be revealed by the information requested" is meant to apply in most situations that would arise under the federal securities laws, the language is extremely vague. We assume that issuers of securities could not assert noncompliance by the Commission with the requirements of the Bill as the basis for refusing to submit essential information, and then offer and sell securities to the public without adequate disclosure. It is less clear whether a broker-dealer registered under the Securities Exchange Act of 1934 might refuse to notify the Commission of a dangerous reduction

in net capital, as required by a Commission rule, because of an alleged failure by the Commission to comply with the procedures mandated by the Bill.

Finally, we are concerned with Section 3518(b), dealing with unlawful disclosure of information. Here, the Commission would be prohibited from releasing information collected "under this chapter" to another agency except under specific conditions. Given the breadth of the definition of information collected "under this chapter," this provision would lead to the anomolous result of placing restrictions on our release of information that was collected for the very purpose of public disclosure.

In conclusion, it is our belief that although S. 1411 may make sense as a Bill intended to apply to research-type statistical data, it makes little sense as it applies to information that is disclosure or enforcement oriented, or to the reporting obligations of regulated industries imposed by statute. Accordingly, we strongly recommend that S. 1411 be amended to narrow the definition of "collection of information" to exclude reporting required in connection with statutorily-authorized regulatory, enforcement or oversight efforts. */ In any event, Section

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*/ At the very least, the Bill should make clear that traditional enforcement activities — gathering information or evidence pursuant to a subpoena or other process in the course of an investigatory, adjudicatory or judicial proceeding - are outside the scope of the proposal. See 4 C.F.R. §10.6(c)(4), (5) (8) (GAO regulations exempting enforcement related information collection).

3507 should be revised to permit an agency to override the Administrator's decision to prohibit certain information collection activities, along the same lines as Section 3509, and Section 3519, dealing with refusal to provide information, should be deleted from the Bill entirely.

I appreciate this opportunity to present the views of the Commission on this Bill, and would be pleased to answer any questions that the members of the Committee might have.

TESTIMONY OF TYRONE BROWN, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION

Mr. BROWN. Good morning, Mr. Chairman.

Senator CHILES. Good morning. We are delighted to have you here.

Mr. BROWN. Thank you.

I suppose I could summarize my testimony in a nutshell by saying, sir, that when you and I arrived here 8 years ago—I as a young staff member—I knew that you would not put up with the nonsense of the overburden of unnecessary governmental paperwork, but I did not know, sir, that you would go quite this far.

Senator CHILES. You created a monster.

Mr. BROWN. Thank you for this opportunity to testify on S. 1411, a bill whose goal is to reduce paperwork burdens resulting from requests for information by agencies of the Federal Government.

I appear in my capacity as a member of the Federal Communications Commission. However, my testimony represents my views and not necessarily those of my colleagues at the Commission.

I endorse the purposes of the proposed legislation. The bill would require first, an advance determination of whether an agency's information requests are necessary to the proper functions of the agency; second, coordination of information collection among Federal agencies in order to reduce duplicative information requests; and third, periodic review by each agency of its information collection burden with the objective of reducing the burden.

I believe that adoption of a bill along these lines should reduce the regulatory burden on the public and improve the overall efficiency of information collection.

SUBSTANTIVE POLICYMAKING

My testimony is directed specifically to the applicability of sections 3507 and 3509 of the proposed legislation to the independent regulatory agencies. In my judgment, most of the provisions of S. 1411 would improve information management within the independent agencies.

However, because information gathering and substantive policymaking are so closely intertwined, I fear that the requirement of executive branch approval set forth in sections 3507 and 3509 could significantly impair the historic independence of agencies such as mine.

Proposed section 3507 would grant the Administrator of the Office of Federal Information Management Policy the authority to determine that an independent agency's determination of its information needs is incorrect.

Under this section, the Administrator would determine whether collection of information is necessary for the proper performance of the functions of the agency and whether the information has practical utility for the agency.

Apparently, and this is a point I will come back to later, the Administrator's determination under this section would not be subject to review, since the independent agency would be barred from collecting information which the Administrator finds to be "unnecessary, for any reason," language which in my mind contemplates no judicial review.

Only 6 years ago, Congress transferred the authority for clearing the information requests of independent agencies from the Office of Management and Budget to the General Accounting Office.

Unlike S. 1411, that amendment expressly stated that it was the independent agency which would make the final decision on whether the information was necessary. The legislative history makes it clear that this action was taken to preserve the independence of the decisionmaking processes of these agencies and to assure that clearance procedures would not be used to delay or obstruct agency investigations and data collection or to subject their deliberations to undue executive branch influence. These concerns remain valid today. And, they reflect the principle that agencies are responsible to the Congress and not to the executive branch.

INFORMATION AND RULE ENFORCEMENT

To understand the problems this bill's clearance procedure would cause, it is necessary to appreciate the relationship between information gathering and agency policymaking and rule enforcement.

Data collection is often a necessary part of our decisionmaking process. This is particularly true as the courts in recent years have required extensive records to justify agency rulemakings.

Further, at my agency at least, data collection is often the only practicable way to monitor compliance with our substantive rules and regulations. Thus, authority given the Administrator to overrule agency information requests could have the effect of frustrating the adoption or implementation of policies that a majority of the particular agency would pursue.

To illustrate my point, I would cite the daily program logkeeping requirements that the FCC currently imposes on its radio broadcast licensees.

These logkeeping requirements recently gained some notoriety as the governmental paperwork requirement second only to the income tax form in terms of its overall burden.

It is generally conceded that these rules impose a heavy burden. At the same time, it is also generally conceded that the daily logkeeping requirement is the only practical way the Commission can monitor compliance with its substantive rules relating to commercialization on radio and to other substantive requirements.

The Commission is in the midst of a proceeding to determine whether these substantive rules should be abolished. If they are, this logkeeping requirement would also fall.

Undoubtedly, our final decision on the merits will be reviewed by the courts. However, under section 3507, the Administrator could determine—for any reason—that our logkeeping requirement is unnecessary, thus undermining our determination on the substantive issues and frustrating court review on the merits.

A second area in which the FCC has for some years made information requests similarly demonstrates the inadvisability of granting an executive branch administrator the broad powers set forth in section 3507.

DUPLICATIVE INFORMATION

At the same time, I believe this illustration points out the potential benefits of other provisions of the proposed legislation. The FCC, beginning in 1968, required its broadcast licensees to refrain from employment discrimination.

To monitor compliance and to determine whether additional action in this area was required, the agency imposed a statistical reporting requirement. Based on the results of monitoring, the agency in 1972 imposed an affirmative action requirement on broadcasters.

Our substantive rules in this area have been approved by the courts, and we continue to monitor the progress of each licensee's affirmative action effort by means of an annual reporting requirement.

Undoubtedly, my agency's information gathering requirements in this area can and should be coordinated with those of the EEOC. I believe sections 3505 and 3508 of the bill would assure that type of coordination. And, for that reason, I support the principle embodied in those provisions.

On the other hand, I am convinced that we have no means other than periodic reporting to assure compliance with our affirmative action policies. Thus, if the Administrator were to determine that the reporting requirements were unnecessary, he would in effect overrule the agency's substantive affirmative action policies because we would have no way of policing the requirement.

Because section 3507 on its face gives the Administrator such authority, I urge revision of this provision.

For basically the same reasons, I also urge revision of section 3509 which would require advance approval by the Administrator before new information requests could take effect. That section appears to recognize the unique status of the independent agencies by permitting such agencies to overrule an adverse determination of the Administrator by a two-thirds vote.

In my judgment, however, this provision does not adequately address the problem I have discussed above. If it is clear—and I believe it is—that the Administrator through a determination on an information request, can reverse the substantive policy decisions of an independent regulatory agency, I do not believe such executive branch intervention is cured merely by allowing a greater-

than-majority vote of the agency to, in turn, overrule the Administrator.

Moreover, even if it is assumed that the two-thirds vote provision of section 3509 would adequately preserve the independence of agencies such as mine, that provision could be rendered a nullity by section 3507.

As the bill is currently drafted, at any point an interested party can challenge an information request under section 3507 and the Administrator could, under that section, "for any reason," make a determination that collection of the information is unnecessary, thereby, circumventing the possibility of a greater-than-majority vote to overrule his determination under section 3509.

This, it seems to me, Mr. Chairman, is something that could be handled in draft, during the markup.

Apart from the need to preserve the decisionmaking role of independent agencies, I believe there are two additional reasons why the approval mechanism of sections 3507 and 3509 should not be applied to such agencies.

First, I think this mechanism may be unnecessary because there are already procedural safeguards against excessive paperwork requirements imposed by independent regulatory agencies like the FCC.

I heard, with interest this morning, the OMB witness testify to the effect that independent agencies account for substantially less than 5 percent of the paperwork burden that you and we are concerned with today.

Because new information demands, at least as far as my agency is concerned, depend on changes in regulatory policy, these demands generally occur only after full rulemaking proceedings.

The public and the regulated industry have full opportunity to comment and can—and usually do—seek judicial review.

TWO-TIERED PROCESS

Second, and this is something that concerns me greatly, I see the potential in S. 1411 for administrative overlap and procedural complications arising from a two-tiered decisionmaking process on information requests—that is, initial agency decision, and then review by an executive branch administrator. These are some questions which immediately come to mind:

Would the Administrator rely on the agency record in making his determination or create a new record? Would the Administrator's decision be independently reviewable in court if not overturned by two-thirds of the agency?

Would the Administrator's decision be independently reviewable even if the agency's information request was approved by the Administrator? If so, would the two decisions—the agency's and the Administrator's—be consolidated for judicial review?

In fact, with respect to the independent agencies, I believe it would be dangerous to make the Administrator's determination final and not subject to judicial review.

Because of the impact that his decisions will have on the agency's substantive policies in many cases.

On the other hand, I believe the two-tiered decisionmaking process contemplated by the bill, plus judicial review could result in such delays and uncertainty that the overall effect would be counterproductive

In sum, Mr. Chairman, I believe the internal information management functions and the coordination of information collection mandated by S. 1411 could be profitably extended to the independent agencies.

ALTERNATIVE PROCESS

For the reasons cited above, however, I would not extend the approval requirements of sections 3507 and 3509 to such agencies. I continue to believe the soundest way to assure that independent agencies do not impose unnecessary paperwork burdens is through regular review of their activities both internally and by appropriate oversight committees of the Congress.

In this connection, I would suggest to the committee that it consider, not a mandatory approval requirement for the independent agency, but a reporting requirement either to GAO, or to OMB. Then, if such agencies do not concur in the agency's judgment, the Administrator may issue a public report to that effect and transmit that report to the appropriate oversight committee of the Congress.

Thank you for this opportunity to testify and I would be glad to respond to questions.

Senator CHILES. Thank you.

EPA VERSUS INDEPENDENTS

Let me ask you both about your position that a regulatory agency, due to its regulatory mission, should be able to make the final determination as to the necessity of the information in carrying out its statutory responsibilities and whether to collect that information.

But, why is it, each of your independent regulatory missions are any different from that of any executive agency regulatory mission like EPA or OSHA?

Mr. BROWN. To respond to that, Mr. Chairman, I would have to go back to the establishment of the independent regulatory agencies. Congress, in its wisdom, determined that such agencies should not be part of the executive branch and established a number of statutory provisions to assure that such agencies, in their decisionmaking, would be insulated from the executive branch and from the political process itself.

I suspect that the reason why Congress made that kind of decision was in each case different. With respect to my agency, I suspect that it was a problem that we would allocate very valuable rights in the area of radio and television broadcast licenses and the Congress felt that allocation policy should be insulated to the greatest extent possible.

Another reason has to do with the requirement of technical expertise and the great deal of technical information that is necessary for us to make reasoned decisions.

All of this, it seems to me, points to the soundness of continuing that insulation and continuing a policy under which our substan-

tive rulemaking, either directly or indirectly, is not subject to influence by the executive branch.

Mr. EVANS. I think I would respond in a similar manner.

Congress established a system whereby certain agencies were separate. They are the agencies that Congress believed should not be part of the administration's program. The administration and the independent regulatory agencies work together and yet, I believe Congress must have concluded that certain types of agencies should not be subject to any political pressure or to the the kind of decisionmaking to which other executive departments and agencies are subject.

In our own case, for example, I am sure you are aware that we have taken action in some instances against people in the administration. How that would occur if we were part of an administration program, I do not know. We value our independence very highly and I believe that our decisionmaking should be on the basis of the facts, and not political.

We are very careful not to respond unduly to input from the administration. If the administration wants to give us information, we accept it, but we do not consider the policy decisions of the administration to be binding on us.

CONGRESSIONAL WISDOM

Senator CHILES. Well, you both make very persuasive arguments for the independence of your agencies and the sensitivity of what you are protecting.

However, I fail to see that that is more persuasive than the environmental protection of this country. I fail to see that it is more sensitive. I fail to see that there is less pressure by concerns that would be trying to stop reports of regulations in regard to environmental matters or the safety of workers at the workplace.

I cannot think of anything in which there is more concern or more pressure and you point out that Congress, in its wisdom, created these things.

Does Congress only express its wisdom once, and is that only in the creation of your agencies? Can Congress, in its wisdom, decide that it wants to now require a review?

Mr. BROWN. I could have said Congress in its wisdom. It may be, Mr. Chairman, that EPA and some of the others could cite sound reasons why they might have been regulatory agencies. But I think that the way to address that question is to ask whether, after starting with the ICC, given 85 years of experience with independent regulatory agencies, that is, the way a particular business should be regulated or whether the agency should be part of the executive branch.

My point, sir, is that the mandatory approval requirement in this legislation is inconsistent with the notion of independence in such regulatory matters.

Senator CHILES. Well, prior to 1973, was it inconsistent?

Mr. BROWN. I certainly would have argued that it was inconsistent.

Senator CHILES. Well, Congress again, in 1973, in responding to what was an abuse that was being exercised at that time, felt that it wanted to make a change and it did so in its wisdom, in 1973.

Today, Congress is hearing a different drumbeat out there in the countryside. And, that drumbeat is in people that are being choked to death by overregulation, by excessive paperwork. Congress in 1973 decided to change that.

We are going to take this out from under the executive branch and put it in the GAO, because we think there have been some abuses.

Now, I think Congress is hearing another drumbeat in this multiplicity of regulations and is deciding that they are ready to try to do something about that. And, if there is an abuse of that, I would assume very quickly that Congress would again do something as they did in 1973, if it was necessary, and if there was abuse of it.

Mr. EVANS. Of course, Congress can make different decisions and should continue to review these types of things. It is my view that it is probably not appropriate for me to comment about other agencies because I am not familiar enough with why they are or are not independent.

I am familiar with why we are. We are trying to give you the best advice we can from the SEC. We think that this bill would not be in the interest of investors and investor protection and this is the primary reason the SEC exists.

A TRADE-OFF

Senator CHILES. Well, we are delighted to get that best advice and that is the reason for this hearing, to get your concerns about it. I do happen to remember that at the time that we were dealing with the sunshine bill, SEC felt if that bill were passed, they were going to be out of business. It just could not even exist. SEC is still operating, aren't they, and we did pass the Sunshine Act?

Mr. EVANS. Yes, we are. And the sunshine bill, as it was finally enacted, reflected some changes that were helpful to us in our enforcement actions. I would have to say, however, that there are instances in which it would be beneficial to have meetings that were not public.

Senator CHILES. I would love to have some that were not public, too.

Mr. EVANS. But, generally, we get along well. There are some instances in which the Sunshine Act creates a problem. We do the best we can.

Senator CHILES. Well, again, that is what Congress is continually trying to do, weigh out these things. I certainly recognize that there are a lot of times it would be easier to conduct business with the doors closed.

Part of the weighing out is what does that cost us? What did it cost us in regard to public confidence in regard to the people's fear of what went on in that closed meeting, whether it was going on or not?

Now, again, we are talking about a trade-off. What is it costing us now to allow every group, independent regulatory agencies as well as the others to decide, if they will issue any form they want

to. Or will they be their own control. We have heard from the Federal Reserve Board patting themselves on the back this morning and I think they have been a very good agency in regard to their own requirements for forms. They are saying, "We are doing a good job, trust us, don't put us under this."

Again, I think that is part of the testimony that each of your groups have given us today and are concerned as you and the Congress are. We are monitoring that and we are doing something about it. Yet, when we go out into the countryside, when we go out and listen to people, they do not feel anybody is doing a good job, the Congress, the executive branch, the independent regulatory agencies, or anyone. They are demanding that something be done. So, again, we are talking about weighing something here. We are talking about not wanting to cripple the mission of the independent regulatory agencies nor the mission of the executive agencies like EPA and OSHA and all of the other agencies that are vital to the well-being of this country. But at the same time, we are trying to put some governor on this thirst for information and some rational decisionmaking processes that Congress can review and that the people can hold accountable, and that we can say we are trying to get a handle on.

Mr. BROWN. Mr. Chairman, I have not meant to suggest that I felt the mission of my agency would be crippled if this bill were adopted.

In fact, as I indicated in my testimony, I believe that the provisions of the bill will substantially improve our information gathering processes. What I would argue is that bottom line, in many cases, at least in my agency, information requests are not going to be removed unless some existing substantive policies of the agency are changed.

I have indicated that I feel many of those policies need to be changed. By way of illustration, I have made a suggestion for a different approach to radio regulation. In part, due to the work that Senator Hollings and Congressman Van Deerlin have done, this has become a very heated issue.

Through their oversight activities, in my judgment——

Senator CHILES. I do not think there is any substitute for that.

Mr. BROWN. They have helped to move my agency toward taking a look at long-standing substantive policies. As a result of changes in those substantive policies some of which have taken place, the paperwork burden has been and will continue to be reduced.

But, to look at it only from the angle of the paperwork requirement, I think will not result in substantial reductions of the burden.

Senator CHILES. That is a good point.

Well, we thank you both for your testimony. We appreciate your comments. We will recess our hearings now, subsequent to the call of the Chair.

[Letter to Senator Chiles from Mr. Brown follows:]

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., November 7, 1979.

Hon. LAWTON CHILES,
Chairman, Subcommittee on Federal Spending Practices and Open Government, Senate Committee on Governmental Affairs, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR CHAIRMAN CHILES: I am writing to supplement my testimony last week on S. 1411. As I recall, with respect to Sections 3507 and 3509, Mr. Grandquist from the Office of Management and Budget testified that OMB might find acceptable an approach which accords finality to independent regulatory agency form requests if the request is made after a vote on the specific request by the members of the agency. By contrast, Mr. Grandquist would not accord finality to requests made by agency staff on delegated authority.

I would support the approach suggested by Mr. Grandquist. It would assure that agency members formally deliberate with respect to information requests in the light of policies reflected in the proposed law. Short of such deliberation, the Executive Branch office would have authority to overrule regulatory agency staff determinations. Such an approach, I believe, would accomplish the objectives of S. 1411 without compromising independent agency decisionmaking.

I request that this letter be included in the hearing record. Again, thank you for the opportunity to testify on S. 1411.

Sincerely,

TYRONE BROWN,
Commissioner.

[Whereupon, at 12:20 p.m., the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

96TH CONGRESS
1ST SESSION

S. 1411

To improve the economy and efficiency of the Government and the private sector by improving Federal information management, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26 (legislative day, JUNE 21), 1979

Mr. CHILES (for himself, Mr. BENTSEN, and Mr. DANFORTH) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To improve the economy and efficiency of the Government and the private sector by improving Federal information management, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Paperwork and Redtape Reduction Act of 1979".

FINDINGS AND DECLARATIONS

SEC. 2. (a) The Congress hereby finds that unnecessary paperwork and redtape—

(1) are weakening the effectiveness of Federal programs;

(2) are costing excessive amounts of money through direct taxes or the hidden taxes of higher production costs and consumer prices; and

(3) are contributing to losses of productivity and increases in inflation.

(b) The Congress further finds that problems of unnecessary paperwork and redtape can be eliminated or substantially ameliorated if the following principles are followed when legislation and regulations are being drafted and when programs are being planned and evaluated:

(1) The full costs and value of Government programs, not only to the Government, but also to individuals and groups outside the Government, must be examined.

(2) Alternative ways to run programs must be taken into account so that a conscious choice can be made as to who will bear the costs of the programs and who will receive benefits from them.

(3) Individuals, business enterprises, State and local governments, and other organizations and institutions involved in Federal programs must be allowed to make suggestions regarding the design and evaluation of those programs so that Government agencies can be

alerted to potential problems of unnecessary costs, losses in effectiveness, and inefficient approaches.

(4) The full array of information and paperwork handling technologies which might aid in operating programs must be identified and analyzed, to insure that their application is carefully coordinated within and among agencies and that waste, overlap, and duplication are avoided. These technologies include, but are not restricted to, computers, communications equipment, word processors, office machines, and microforms.

(c) The Congress hereby determines that new information policies and management procedures are necessary to eliminate needless paperwork and redtape and make the Federal Government an effective and efficient instrument in service to the American people. These policies and procedures should be founded on the realization that information is not a free good, but a valuable resource.

TITLE I—CENTRAL MANAGEMENT AND CONTROL RESPONSIBILITY

OFFICE OF FEDERAL INFORMATION MANAGEMENT POLICY

SEC. 101. (a) Title 44 of the United States Code is amended by striking out chapter 35 and inserting in its place the following new chapter:

"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION MANAGEMENT POLICY

"§ 3501. Information for Federal agencies

"Information needed by Federal agencies shall be obtained with a minimum burden upon business enterprises, especially small business enterprises, State and local governments, and other persons required to furnish the information, and at a minimum cost to the Government. Unnecessary duplication of efforts in obtaining information through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by a Federal agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

"§ 3502. Definitions

"As used in this chapter, the term—

"(1) 'Administrator' means the Administrator for Federal Information Management Policy in the Office of Management and Budget;

"(2) 'Federal agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; but does not include the General Accounting Office or the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions;

"(3) 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Civil Aeronautics Board, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commis-

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sion, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, and the Securities and Exchange Commission;

"(4) 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of persons, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

"(5) 'collection of information' means the obtaining or soliciting of facts or opinions for any purpose by a Federal agency by the use of written report forms, application forms, schedules, questionnaires, reporting or recordkeeping requirements, or other similar methods calling for either—

"(A) answers to identical questions posed to or identical reporting or recordkeeping requirements imposed on ten or more persons other than agencies, instrumentalities, or employees of the United States; or

"(B) answers to questions posed to agencies, instrumentalities, or employees of the United

States and which are to be used for statistical compilations of general public interest;

"(6) 'information collection request' means a written report form, application form, schedule, questionnaire, or reporting or recordkeeping requirement for the collection of information;

"(7) 'burden' means the time, effort, and financial resources expended by persons to provide information collected by a Federal agency; and

"(8) 'practical utility' means the ability of an agency to use information it receives, particularly the capability to process such information in a timely and useful fashion.

"§ 3503. Office of Federal Information Management Policy

"(a) There is established in the Office of Management and Budget an office to be known as the Office of Federal Information Management Policy (hereinafter in this chapter referred to as the 'Office').

"(b) There shall be at the head of the Office an Administrator for Federal Information Management Policy (hereinafter in this chapter referred to as the 'Administrator'), who shall be appointed by the President, by and with the advice and consent of the Senate.

"§ 3504. Authority and functions of Administrator

"(a) The Administrator shall have Government-wide responsibility for setting policies and coordinating procedures governing the planning, budgeting, management, and control of Federal information management activities and of the measurement of burdens imposed by such activities on business enterprises, State and local governments, and other persons outside the Federal Government. Each agency shall have responsibility to account for and minimize the external burdens imposed by programs for which it is responsible, operating within the guidance provided under subsections (b) through (g) of this section.

"(b) The Administrator shall publish annually, with an analysis by agency and by such other categories as he may deem useful, a report describing the compliance burden of public-use reports, recordkeeping, and other information requirements imposed by agencies on persons outside the Federal Government. The report shall describe the burdens of all such requirements on such persons, as well as the costs to agencies.

"(c)(1) The Administrator shall review, at least once every three years, by means of reports and selective inspections, the information management activities, information collection and clearance activities, and the paperwork reduction activities of each agency to ascertain their adequacy. Upon

completion of such review, which shall include the accomplishments made by the agency since the preceding review (or, in the case of the first review of an agency's activities, the accomplishments of the preceding three years), the Administrator shall—

"(A) evaluate the adequacy and efficiency of the activities; and

"(B) set target goals for further reductions of the numbers and burdens of Federal reports and other recordkeeping requirements imposed on persons outside the Federal Government.

"(2) In evaluating the adequacy and efficiency of the information management activities, information collection and clearance activities, and paperwork reduction activities of each agency pursuant to paragraph (1)(A), the Administrator shall pay particular attention to whether—

"(A) a senior official of the agency has been designated to act as the coordinator of such activities within the agency;

"(B) the agency has systematically inventoried and periodically reviewed its information resources;

"(C) the agency has integrally planned and managed its information resource needs in conjunction with the agency's other resource needs; and

"(D) the agency has taken steps to ensure that its information systems do not overlap each other or duplicate those of other Federal agencies.

"(3) In setting goals for further reductions pursuant to paragraph (1)(B), the Administrator shall take into consideration the time, effort, and financial costs of reviewing data and putting it into usable form that such reductions would impose on Federal agencies. He shall not set any goals which would, in his opinion, unreasonably increase those costs.

"(d) The Administrator shall conduct advance planning of Federal information collection, storage, and use activities, provide technical assistance to agencies which are developing such programs, and promote the use of standards and guidelines for data presentation.

"(e) The Administrator shall develop and recommend to the President and the Congress policies and standards on information disclosure, confidentiality, and safeguarding the security of information collected or maintained by Federal agencies, or in conjunction with Federal programs. The Administrator shall provide agencies with advice and guidance about information security, monitor compliance with privacy aspects of information management laws, and issue such standards and regulations with regard to privacy and confidentiality of information as he may deem necessary.

"(f) The Administrator shall conduct a research program to develop improved information and paperwork cost accounting and reduction techniques.

"(g) The Administrator shall conduct studies and promulgate standards with respect to records retention requirements imposed on the public by Federal agencies.

"(h) Except as otherwise provided by law, no duties, functions, or responsibilities, other than those expressly assigned by this chapter shall be assigned, delegated, or transferred to the Administrator.

"§ 3505. Designation of central collection agency

"When, after investigation, the Administrator is of the opinion that the needs of two or more Federal agencies for information from business enterprises and other persons will be adequately served by a single collecting agency, he shall fix a time and place for a hearing at which the agencies concerned and other interested persons may have an opportunity to present their views. After the hearing, the Administrator may issue an order designating a collecting agency to obtain information for two or more of the agencies concerned, and prescribing (with reference to the collection of information) the duties and functions of the collecting agency so designated and the Federal agencies for which it is to act as agent, so long as such sharing of data does not conflict with section 3518 of this chapter, section 552a of title 5 (commonly

known as the Privacy Act of 1974), or any other law. The Administrator may modify the order from time to time as circumstances require, but modification may not be made except after investigation and hearing. If, during an investigation or hearing, the Administrator concludes that a Federal agency needs certain information from business enterprises and other persons but does not have authority to collect that information, he shall make a report to the President of the Senate and the Speaker of the House of Representatives describing legislative impediments to such information collection and citing reasons for eliminating them.

"§ 3506. Independent collection by an agency prohibited

"While an order or modified order issued under section 3505 is in effect, a Federal agency covered by it may not obtain for itself information which it is the duty of the collecting agency designated by the order to obtain.

"§ 3507. Determination of necessity for information; hearing

"Upon the request of a party having a substantial interest, or upon his own motion, the Administrator may determine whether or not the collection of information by a Federal agency is necessary for the proper performance of the functions of the agency and has practical utility for the agency. Before making a determination the Administrator may give the agency and other interested persons an oppor-

tunity to be heard or to submit statements in writing. To the extent, if any, that the Administrator determines the collection of information by the agency is unnecessary, for any reason, the agency may not engage in the collection of the information.

"§ 3508. Cooperation of agencies in making information available

"For the purposes of this chapter, the Administrator may order a Federal agency to make available to another Federal agency information obtained from any person after December 24, 1942, and all agencies are directed to cooperate to the fullest practicable extent at all times in sharing information with one another. No order issued under this authority may be inconsistent with section 3518 of this title, section 552a of title 5, or any other law.

"§ 3509. Information collection activities—submission to Administrator; approval

"(a) A Federal agency, including any individual member of an independent regulatory agency, shall not conduct or sponsor the collection of information unless, in advance of adoption or revision of the request for collection of such information—

"(1) the agency has taken appropriate steps, including consultation with the Federal Information Locator System, to eliminate requirements which seek to

obtain information available from another source within the Federal Government, to minimize the compliance burden on respondents, and to formulate plans for tabulating the information in a manner which will maximize its usefulness to other Federal agencies and to the public;

"(2) the agency has submitted to the Administrator the proposed information collection request, copies of pertinent regulations and of other related materials as the Administrator may specify, and an explanation of measures taken to satisfy paragraph (1) of this section; and

"(3) the Administrator has approved the proposed information collection request, except that any disapproval, in whole or in part, of a proposed requirement from an independent regulatory agency may be voided if the agency, by a two-thirds vote of its members, votes to override the Administrator's decision.

"(b) The Administrator shall not approve a proposed information collection request for a period of time greater than two years unless he (or, prior to the effective date of this Act, the Director of the Office of Management and Budget) had previously approved an identical or similar request, in which case he shall not approve the proposed request for a period of time greater than five years.

"§ 3510. Time limit for action by Administrator

"When the Administrator receives a proposed information collection request from a Federal agency pursuant to section 3509(a), he shall within sixty days of receipt of the proposal notify the agency of his decision to approve or disapprove the proposed request. If the Administrator determines that a request submitted for review is too controversial or complicated to review within sixty days, he may, after notice to the agency, extend the review period for an additional thirty days. If the Administrator does not notify the agency of an extension, denial, or approval within sixty days (or, if he has extended the review period for an additional thirty days and does not notify the agency of a denial or approval within the time of the extension), his approval may be implied and the agency may collect the information for the maximum period of time for which the Administrator might have approved the request pursuant to section 3509(b).

"§ 3511. Rules and regulations

"(a) The Administrator shall promulgate rules and regulations necessary to exercise the authority provided by this chapter.

"(b) No Federal agency shall be exempt from the requirements of this chapter. However, the Administrator may delegate his power to approve proposed information collection requests in specific program areas, for specific purposes,

or for all agency purposes, to any agency, providing that he finds that the agency has sufficient capability, independent from any program responsibility, to evaluate whether the proposed requests should be approved. He shall retain authority to revoke such delegations of power. In acting for the Administrator, any agency to which approval powers have been delegated shall comply fully with the rules and regulations promulgated by the Administrator.

"§ 3512. Consultation with other agencies

"In the development of policies, rules, regulations, procedures, and forms to be prescribed by him, the Administrator shall consult with persons outside the Federal Government and the agencies affected, including the Small Business Administration and other agencies promulgating policies, rules, regulations, procedures, and forms affecting public-use reports and recordkeeping. To the extent feasible, the Administrator may designate an agency or agencies, establish interagency committees, or otherwise use agency representatives or personnel, to solicit the views and the agreement, so far as possible, of persons outside the Federal Government and agencies affected on significant changes in policies, rules, regulations, procedures, and forms.

"§ 3513. Administrative powers

"Upon the request of the Administrator, each agency is directed to—

"(1) make its services, personnel, and facilities available to the Office to the greatest extent practicable for the performance of his functions; and

"(2) except when prohibited by law, furnish to the Administrator and give him access to all information and records in its possession which the Administrator may determine to be necessary for the performance of the functions of the Office.

"§ 3514. Responsiveness to Congress

"(a) The Administrator shall keep the Congress and its duly authorized committees fully and currently informed of the major activities of the Office, and shall submit a report thereon to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as may be necessary for this purpose, together with appropriate legislative recommendations. The Administrator shall include in his reports notification of all violations of provisions of this chapter and rules, regulations, goals, and orders issued by him pursuant to them.

"(b) The preparation of these reports shall not increase the burden on persons outside the Federal Government of responding to mandatory requests for information.

"§ 3515. Effect on existing laws

"The authority of an agency under any other law to prescribe policies, rules, regulations, procedures, and forms

for public-use reports, recordkeeping requirements, and other Government information collection requests is subject to the authority conferred on the Administrator by this chapter.

"§ 3516. Effect on existing regulations

"Policies, rules, regulations, procedures, or forms regarding public-use reports, recordkeeping, and other information collection requests in effect as of the date of enactment of this chapter shall continue in effect, as modified from time to time, until repealed, amended, or superseded by policies, rules, regulations, procedures, or forms promulgated by the Administrator.

"§ 3517. Access to information

"(a) The Administrator and personnel in his office shall furnish such information as the Comptroller General may require for the discharge of his responsibilities. For this purpose, the Comptroller General or his representatives shall have access to all books, documents, papers, and records of the Office.

"(b) The Administrator shall, by regulation, require that formal meetings of the Office, as designated by him, for the purpose of establishing Federal information management policies and regulations shall be open to the public, and that public notice of each such meeting shall be given not less than ten days prior thereto.

"§ 3518. Unlawful disclosure of information; penalties; release of information to other agencies

"(a) If information obtained in confidence by a Federal agency is released by that agency to another Federal agency, all the provisions of law including penalties which relate to the unlawful disclosure of information apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

"(b) Information obtained by a Federal agency from a person under this chapter may be released to another Federal agency only—

"(1) in the form of statistical totals or summaries;

"(2) if the information is information which the agency could be compelled to disclose under section 552 of title 5 and would not be barred from disclosing under section 552a of such title;

"(3) when the persons supplying the information consent to the release of it to a second agency by the

agency to which the information was originally supplied;

"(4) when the Federal agency to which another Federal agency releases the information has authority to collect the information itself and the authority is supported by legal provision for civil or criminal penalties against persons failing to supply the information; or

"(5) when the disclosure would be—

"(A) restricted to a list containing names, addresses, and any related information which is necessary to the collection or compilation of survey data (provided that such list is not derived from the decennial or mid-decade census of population and housing);

"(B) for the purpose of developing or reporting aggregate or anonymous information not to be used in any way in which the identity of the respondent may be revealed without his permission;

"(C) subject to a written agreement by the receiving agency that prohibits any further use or redisclosure of the list involved; and

"(D) pursuant to a written order by the Administrator.

"§ 3519. Penalty for failure to furnish information

"(a) Notwithstanding any other provision of law, no person shall be subject to any penalty whatsoever for failing to provide information to any Federal agency unless the collection of the information has been approved by the Administrator under the provisions of this chapter.

"(b) A person failing to furnish information required by an agency shall be subject to penalties specifically prescribed by law if the collection of the information has been approved by the Administrator under the provisions of this chapter, and no other penalty may be imposed either by way of fine or imprisonment or by the withdrawal or denial of a right, privilege, priority, allotment, or immunity except when the right, privilege, priority, allotment, or immunity is legally conditioned on facts which would be revealed by the information requested.".

(b) The table of chapters of title 44, United States Code, is amended by striking out

"35. Coordination of Federal Reporting Services."

and inserting in its place

"35. Coordination of Federal Information Management Policy.".

DELEGATION OF RELATED FUNCTIONS

SEC. 102. (a) The President and the Director of the Office of Management and Budget shall delegate to the Administrator for Federal Information Management Policy all

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their functions, authority, and responsibility under section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b).

(b) The Director of the Office of Management and Budget shall delegate to the Administrator for Federal Information Management Policy all functions, authority, and responsibility of the Director under the Privacy Act of 1974.

RELATED RESPONSIBILITIES OF OTHER OFFICIALS

SEC. 103. (a) Section 708 of the Public Health Service Act (42 U.S.C. 292h) is amended by striking out subsection (f).

(b) Section 400A of the General Education Provisions Act (20 U.S.C. 1221-3) is repealed.

(c) Section 201 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1211) is amended by striking out subsection (e).

(d) The Office of Personnel Management, after consultation with the Administrator for Federal Information Management Policy, shall coordinate a Government-wide training program to improve the skills of information management specialists within the Government.

ANNUAL PAY

SEC. 104. Section 5315 of title 5, United States Code, is amended by inserting immediately after paragraph (49) the following new paragraph:

"(50) Administrator for Federal Information Management Policy.".

TITLE II—ELIMINATION OF UNNECESSARY DUPLICATION

FEDERAL INFORMATION LOCATOR SYSTEM

SEC. 201. (a) Title 44 of the United States Code is amended by adding after chapter 35 the following new chapter:

"CHAPTER 36—FEDERAL INFORMATION LOCATOR SYSTEM

"§ 3601. Definitions

"For purposes of this chapter, the term—

"(1) 'data element' means a significant word or other piece of information;

"(2) 'data element dictionary' means a thesaurus of standard and uniform definitions for commonly used names, terms, abbreviations, and symbols used in public-use reports, recordkeeping requirements, interagency reports, and intra-agency reports;

"(3) 'data profile' means a synopsis of the questions contained in a public-use, interagency, or intra-agency report, or of the information maintained pursuant to a recordkeeping requirement, and also such re-

lated items as the official name of the report or requirement, its location, the responsible Federal agency which established and administers it, the authorizing statute, a description of its contents, and other information necessary to identify, access, and use the data contained in it;

"(4) 'duplication' means redundancy in data and information collected by Federal agencies, whether through public-use, interagency, or intra-agency reports, or through recordkeeping requirements, including, but not limited to—

"(A) identical duplication, involving two or more data elements which have the same definition or meaning;

"(B) similar duplication, involving data elements related to the same specific subject but with minor differences in definition; and

"(C) generic duplication, involving reports requesting groups of data that relate to the same subject;

"(5) 'Federal agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or

any independent regulatory agency; but does not include the General Accounting Office or the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions;

"(6) 'information locator' means a catalog of public-use, interagency, and intra-agency reports, and recordkeeping requirements, containing a data profile for each report or requirement;

"(7) 'information referral service' means the communications function that permits officials and citizens access to the Federal Information Locator System;

"(8) 'interagency report' means a data collection instrument used by one Federal agency to collect information from any other Federal agency or agencies;

"(9) 'intra-agency report' means a document prepared by a Federal agency from data collected through public-use reports, recordkeeping requirements, and interagency reports and issued for use within the preparing agency;

"(10) 'public-use report' means a data collection instrument used by Federal agencies to collect information from ten or more persons outside the Federal Government; and

"(11) 'recordkeeping requirement' means a requirement imposed by a Federal agency on ten or more persons outside the Federal Government to maintain records concerning an identical data element.

"§ 3602. Establishment of Federal Information Locator System

"(a) There is hereby established in the Office of Federal Information Management Policy a Federal Information Locator System composed of an information locator, a data element dictionary, and an information referral service.

"(b) The Federal Information Locator System shall serve as the authoritative register of all public-use reports, recordkeeping requirements, and interagency and intra-agency reports.

"(c) The data profiles describing the general contents of such reports and requirements shall be used to—

"(1) identify duplication in existing or new reporting and recordkeeping requirements;

"(2) locate existing information that may meet the needs of a Federal agency and thereby promote sharing of such information to avoid duplication;

"(3) provide a central coordination mechanism for the Federal Government's requirements for information;

"(4) maximize the use of information by identifying available information which will be of utility to Congress and the general public; and

"(5) monitor the total reporting and recordkeeping burdens imposed on the public by the Federal Government so that effective action can be applied to reduce such burdens.

"§ 3603. Duties of Administrator for Federal Information Management Policy

"The Administrator for Federal Information Management Policy (hereinafter in this chapter referred to as the 'Administrator') shall—

"(1) design and operate the Federal Information Locator System;

"(2) design and operate an indexing system for such System;

"(3) promulgate rules requiring the head of each Federal agency to prepare in a form specified by the Administrator, and to insert into the Federal Information Locator System, a data profile for each public-use report, recordkeeping requirement, interagency report, and intra-agency report;

"(4) register all data elements in public-use reports, recordkeeping requirements, interagency reports,

and intra-agency reports in the Federal Information Locator System; and

"(5) match data profiles for proposed public-use reports, recordkeeping requirements, interagency reports, and intra-agency reports against existing profiles in such System, and make available the results of such matching to—

"(A) Federal agency officials who are planning new information collection activities;

"(B) relevant Federal agency reports clearance officers; and

"(C) on request, members of the general public.

"§ 3604. Privacy and confidentiality controls

"(a) The Administrator shall insure that no actual data, except descriptive data profiles necessary to identify duplicative data or to locate information, are contained within the Locator System. Any data profile which identifies a data element of a personal or proprietary nature within the meaning of the section 552a of title 5 shall be appropriately annotated through a coding system that—

"(1) identifies the fact that the actual data, wherever located, are personal or proprietary and that access to and use of such data is therefore restricted in

accordance with safeguards prescribed by section 552a of title 5, or other provisions of law; and

"(2) classifies the data elements with respect to the degree of sensitivity of the data, user restrictions, access restrictions, safeguard provisions, and such other identifying information as may be helpful to users of the System.

"(b) The Administrator shall identify, by means of appropriate classification systems and coding controls, data which have been determined to be subject to the provisions of section 552 of title 5, including whether such data may fall within a category listed in subsection (b) of such section.

"(c) The head of each Federal agency shall establish such procedures as he may deem necessary to insure the compliance of his agency with the requirements of this section, including necessary screening and compliance activities.".

(b) The table of chapters of title 44, United States Code, is amended by adding after the item relating to chapter 35 the following new item:

"36. Federal Information Locator System."

TITLE III—MISCELLANEOUS PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There are hereby authorized to be appropriated to carry out the provisions of this Act, and for no other purpose, such sums as may be necessary.

EFFECTIVE DATE

SEC. 302. This Act shall take effect on the sixtieth day following the date of its enactment.

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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OCT 31 1979

The Honorable Abraham Ribicoff, Chairman
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

In response to your request of September 6, 1979, we have prepared comments on S. 1411, the "Paperwork and Redtape Reduction Act of 1979." The bill would reorganize selected Government information management activities. It would establish an Office of Federal Information Management Policy in the Office of Management and Budget (OMB) responsible for setting Government-wide information management policies for paperwork, statistics, privacy, information disclosure, and confidentiality. The Office would oversee agency information management activities and would periodically evaluate these activities.

The Federal Reports Act clearance responsibilities would be consolidated in the new Office and the closely related statistical policy function, presently in the Department of Commerce, would be transferred to the new Office. Also, several changes would be made to the Act to revise and strengthen the reports clearance process, including the elimination of the agency exemptions from the Act. The bill would establish a Federal Information Locator System to serve as a mechanism for eliminating unnecessary duplicate reporting to the Federal agencies.

We strongly support the objectives of S. 1411. It addresses what we believe are four key issues needing resolution to improve Federal information management and to restructure and consolidate the Government's information management activities. These issues are

--ending the currently fragmented responsibility for clearance of reports used to collect information from the public;

--combining the statistical policy function with reports clearance in a single organization;

--providing adequate resources for the combined functions; and

--amending the Federal Reports Act to clarify certain provisions and eliminate weaknesses.

Consolidating Fragmented Information Management Activities

We believe that progress toward achieving the Federal Reports Act's objectives is hampered because there is no central management authority for paperwork control activities. Instead, control responsibility is fragmented among three organizations--OMB; the General Accounting Office (GAO); and the Department of Health, Education and Welfare (HEW). In addition, agencies responsible for about 75 percent of the paperwork burdens are exempt from the Act. The closely related statistical policy responsibilities are presently in the Department of Commerce. We believe all these activities should be consolidated in a single organization.

Fragmentation of these responsibilities occurred by virtue of individual legislative and executive actions over the past few years. Until 1973, the responsibility for paperwork control was in OMB. Then,

--GAO was assigned responsibility for review and clearance of independent regulatory agencies' reports in 1973;

--the Public Health Service Act was amended in 1976, establishing in HEW a broad program for collecting data on health professions personnel and providing that the program not be subject to OMB's central review authority; and

--the General Education Provisions Act was amended in 1978, giving the Secretary of HEW control over all Federal data collections related to educational institutions and programs. The only role provided for OMB was to review an agency's appeal of denial by the HEW Secretary of a proposed information collection.

Under the Act, several agencies are exempt from the central clearance authority. These include the Internal Revenue Service (IRS), other Treasury Department agencies, and the bank regulatory agencies with regard to their supervisory functions. The Commission on Federal Paperwork recommended, and we agree, that these exemptions should be eliminated. The obvious reason is that controls are weakened by the exemptions. Burden estimates by IRS indicate that it imposes about three-quarters of the federally-imposed reporting burden on the public.

At the time the Federal Reports Act was passed, the key reason for excluding IRS was to preserve the confidentiality of tax information. This reason is no longer valid because other statutes protect the confidentiality of this information and the present bill does not eliminate this protection. Elimination of the exemptions will strengthen the central clearance agency's ability to control the paperwork burden under the Act.

Finally, in 1977, the responsibility for setting statistical policies and standards and coordinating the Federal statistical system was shifted from OMB to the Department of Commerce by executive order. These responsibilities are closely related to the Federal Reports Act objectives for controlling paperwork burdens. For example, the application of statistical procedures to information collection may be helpful in improving the quality of the information collected and in reducing the reporting burden imposed on the public.

We favor consolidating all the paperwork oversight and statistical policy functions in OMB as provided in S. 1411.

Preserving regulatory agencies' independence

Section 3509(a)(3) provides that the Information Management Office Administrator approve proposed information collection requests. Any disapproval of a request proposed by an independent Federal regulatory agency may be voided if the agency's members vote, by a two-thirds majority, to override the Administrator's decision. The override provision provides for a "second look" by the senior regulatory agency officials in cases where the proposed information collection activity appears questionable or seems to require revision.

We endorse this override provision as a viable means for addressing the Congress' concern for preserving the independence of the regulatory agencies' information gathering programs. We would expect that the override mechanism would be used infrequently. Our own experience and our analysis of OMB's implementation of the Federal Reports Act indicates that, although revisions are frequently desirable, few information-gathering proposals are denied outright. However, we suggest the Committee consider amending S. 1411 to provide for an override by a simple majority vote. Several independent regulatory agencies, such

as the Federal Trade Commission and the Securities and Exchange Commission, have only five members. In such cases, four of the five members would have to vote to override a denial by OMB.

Creation of an independent office

Proposed new section 3503 of S. 1411 creates an Office of Federal Information Management Policy in OMB. The new Office contains several features which are identical to those used in establishing the Office of Federal Procurement Policy (OFPP) several years ago. The new Office would operate independently of the OMB Director. The Office Administrator would be appointed by the President with the advice and consent of the Senate. The Office would be assigned specific functions and would report on its activities to the Congress. And the Office would have its own appropriation to be used solely to carry out its assigned functions.

Creation of a statutory office would establish a point of accountability within OMB to which related functions could be assigned. It would, however, remove the OMB Director's discretion to organize as he or she chooses. Also, it would not be possible to hold the OMB Director fully accountable for the actions of the Office Administrator. Moreover, priorities may shift, over time, which would necessitate internal reorganizations and the statutory office could impose constraints on such reorganizations.

Even if an independent office is not created, other features used in establishing OFPP could be accommodated. For example, in terms of funding, the new Office could have its own line item in the budget. In fact, provision could be made for specific levels of funding for the activities without creating a separate office. Historically, limited resources have been applied to the paperwork and statistics areas. Although additional resource allocations have recently been given to these areas, there is no certainty that the resource levels would continue under succeeding administrations. Accordingly, we believe the Congress should provide specific resource allocations to OMB to support these activities.

The OMB Director would most likely have a significant role in the appointment of the person to head the Government-wide information management function regardless of whether a statutory office is created. We think the most important element is that a well qualified person be selected and placed at a sufficiently high level to have direct access to the OMB Director.

On balance, we favor the creation of a statutory office in OMB headed by an appointee of the OMB Director. This bill should set forth the responsibilities and activities of the office which would be supported by a line-item budget. The legislation could specify the salary level for the head of the new office. However, the authority for the exercise of the functions should be clearly placed in the OMB Director to assure maximum accountability to the President and the Congress for carrying out the functions and activities of the office.

Needed Changes to the Federal Reports Act

The Federal Reports Act (44 U.S.C. 3501 - 3512), passed in 1942, remains today the basic statute providing for control of Federal paperwork burdens imposed on the public. We believe that major revisions are needed to clarify and strengthen the Act. Difficulties we have experienced in administering our reports clearance responsibilities under the Act and our audits support our position that the changes are needed.

Section 101 of the bill replaces the Federal Reports Act incorporating the needed changes which include:

--Specific inclusion of recordkeeping requirements in the reports clearance process (Sec. 3502 of proposed new Chapter 35 of Title 44). The Act is presently unclear on whether recordkeeping requirements are subject to clearance. In practice, both GAO and OMB have required that they be cleared. Some agencies, however, have resisted compliance with these efforts.

--Clarification of the Act's definition of "information" to eliminate an ambiguity (Sec. 3502). Some agencies have interpreted the Act to cover only situations where the answers provided by respondents are to be used for statistical compilations of general public interest. This kind of interpretation severely limits the coverage of the Act and the controls over Federal information collection efforts.

--Authority for the clearance agency to plan information collection activities, provide technical assistance, and promote use of data standards (Sec. 3504(d)). We believe OMB should have specific authority for these

activities which are needed to improve the quality of information collection efforts. We also believe OMB needs to get involved earlier in the reports development process instead of being at the very end of the process when the agency positions have been firmed up.

--Mandatory requirements for agency evaluations before they request approval of forms (Sec. 3509(a)(1)). The responsibilities of the individual agencies are unclear in the existing Federal Reports Act. In some cases, agencies have attempted to force upon OMB and GAO tasks which we believe the agencies should perform in developing their information collection instruments.

--Requiring OMB to evaluate the agencies' information management controls (Sec. 3504(c)). This is based on a recommendation we made to OMB some years ago. However, OMB has not had the staff to adequately carry out this function. Under such a requirement, OMB should identify ways to improve the individual agencies' information management controls.

--Enabling OMB to delegate its clearance authority to the agencies (Sec. 3511(b)). OMB should be given the authority to delegate its power to approve information collection requests to the agencies in cases where the agencies have demonstrated sufficient capability. OMB would make its determinations based on the evaluations described above. This would enable OMB to shift its emphasis to a policy and oversight role in contrast to the time consuming effort of clearing individual reporting and recordkeeping requirements. This issue is addressed in our recent report entitled "Protecting the Public from Unnecessary Federal Paperwork: Does the Control Process Work?" (GGD-79-70; September 24 1979). However, we propose that the bill provide that any such delegation be subject to the notice and comment provisions of the Administrative Procedure Act to insure that public views are considered prior to the delegation.

Other Information Management Related Areas

The scope of the information management activities covered by S. 1411 includes policy setting and oversight of agencies'

Privacy Act activities. Under section 3504(e) of proposed new Chapter 35, Title 44, United States Code, the Office head would develop policies and standards on information disclosure, confidentiality, and information security; issue standards and regulations concerning privacy and confidentiality of information; and monitor compliance with privacy aspects of information management laws. If a new Office is created, the OMB Director would be required to delegate his authority for administering the Privacy Act to the new Office under Section 102(b). We believe individual privacy is a valid concern in developing any Federal information management policy.

We also propose amending the bill to extend OMB's statutory authority to oversee agency action on the remaining open recommendations of the Paperwork Commission. OMB is to submit its final report on the status of the Paperwork Commission recommendations within 2 years of the conclusion of the Commission's work. As these 2 years near an end, OMB's September 1979 report shows that almost half of the recommendations, including many requiring legislation, are still open. As we know from our experience on the Procurement Commission followup, 2 years is a very short time to bring about major Government reforms.

Accordingly, we suggest that OMB's followup responsibilities be extended for another 2 years and expanded to cover all the Commission recommendations except those strictly internal to the operations of the Congress. In addition, OMB should be given specific responsibility for developing needed legislation. Also, OMB should be required to include in its reports to the Congress the status of the recommendations, implementation plans, and expected completion dates.

We have additional technical comments on individual sections of the bill and would be happy to discuss them with the Committee staff. We are sending copies of this letter to Senators Chiles, Bentsen, and Danforth who cosponsored S. 1411.

Sincerely yours,

(Signed) ELMER B. STAATS

Comptroller General
of the United States

57-151 O - 80 - 9

WILLIAM V. ROTH, JR.
DELAWARE

3215 DIRKSEN SENATE OFFICE BUILDING
TELEPHONE: 202-224-2441

United States Senate

WASHINGTON, D.C. 20510

COMMITTEES:
FINANCE
GOVERNMENTAL AFFAIRS
JOINT ECONOMIC COMMITTEE

The Honorable Lawton Chiles
Chairman
Subcommittee on Federal Spending
Practices
Committee on Governmental Affairs
Room 44
Capital Hill Apartments
Washington, D.C. 20510

Dear ~~Mr. Chairman~~ Lawton:

I regret being unable to attend the hearing you convened on November 1st to examine various pieces of paperwork control and management improvement legislation, including S.1411, the Paperwork and Red Tape Reduction Act, of which I am a cosponsor. I have reviewed the testimony offered by the witnesses and am pleased to note the broad support the legislation has attracted. You are to be commended for your continuing and diligent work in this area.

As I was unable to attend the hearing, I would like to offer some brief comments on S.391, the Federal Administrative Improvements in Reports Act, a bill I recently introduced. I hope my comments will aid the Subcommittee in its deliberations and I will be happy to assist you in any way I can.

With best wishes, I am,

Sincerely yours,

Bill

William V. Roth, Jr.
U.S. Senate

WVR/kkp

Enclosure

Comments of Senator William V. Roth, Jr.
Regarding S.391, The "Federal Administrative
Improvements in Reports Act"
November 6, 1979

S.391, the Federal Administrative Improvements in Reports Act, is a bill designed to reduce the paperwork burden on the small business community. The legislation is cosponsored by eight of my colleagues and has been endorsed by the National Federation of Independent Businesses.

The hearings held in Flordia on the paperwork problem vividly point out the special difficulties encountered by small business owners and individuals in complying with federal paperwork requirements. The risks involved in operating a small business are substantial with over 50 percent of all small businesses succumbing to failure within two years of their birth. Recent surveys have shown that nearly 94 percent of all small business owners do their own records keeping, highlighting the fact that small business owners cannot afford to hire their own accountant and must devote their valuable time to the nonproductive compliance requirements of federal agencies. Small entrepreneurs, on average, work nearly 58 hours a week to keep their enterprises afloat. In light of these facts, it is simply inexcusable for the Federal Government to add more weight to their burdens through countless paperwork requirements.

S.1411 will help provide the tools we need to more effectively manage federal reporting programs. It would remove exemptions from the review requirements of the Federal Reports Act which many agencies currently enjoy, strengthen OMB management controls, establish a Federal Information Locator System to help identify overlapping or duplicative paperwork requirements, and improve line agency accountability for the reporting requirements they design. Many of these reforms are currently being tested, in OMB and SBA, among other agencies, and the proposals build upon the work of the Paperwork Commission.

However, I am convinced that providing the tools for reducing paperwork is not enough. The special needs of the small business community make it imperative that the Congress act to force the agencies to make significant reductions in the reporting burdens they impose upon small businesses.

S.391 provides for a strong action forcing mechanism designed to create a workable paperwork reduction process within the agencies and bureaus of the Federal Government. Title I establishes a three-year time frame in which all

agencies responsible for paperwork requirements affecting small businesses would redesign their requirements with an eye toward eliminating or streamlining forms and reports. As currently drafted, the bill requires agencies to reduce the number of forms they issue by 30 percent during the three-year review period. It may be wise to concentrate instead on reducing the total reporting burden by 30 percent.

As each agency completes its review process, it would submit its revised forms to Congress for approval. At the end of the three-year review period, all forms which were in use before the last day of the period would be Sunsetted and could not be used by any government agency. This provision is the action forcing mechanism in my bill. It is designed to stimulate creative action on the part of the agencies in fulfilling the requirements of the bill. Provisions could be inserted in the bill to require the President to submit to Congress legislation to remove statutory impediments to reaching the 30 percent reduction goal.

While this title of the bill may at first glance seem a radical approach, similar efforts have been made at the State level with excellent results. In Minnesota, for example, the State Department of Administration set a goal of reducing the number of State forms required to be completed by assistance recipients and businesses by 30 percent in one year. The program began early in 1977 and at that time there were 35,939 forms in use in the State, including city and county requirements. By the end of the year, only 11,720 forms remained. By setting goals and working toward them, real gains were achieved. In fact, many State agency heads became enthusiastic about the program and discovered that there really were duplications in requirements and unnecessary forms in use. In short, the State set a goal and forced itself to meet that goal. We must do the same if we hope to win the battle against paperwork.

The FAIR Act also creates a new system to control the regrowth of paperwork once we have cut it down to size. Title II of the bill would require the pilot or trial testing of any new government form before it could be put into use on a regular basis. Essentially, pilot testing would allow small businesses the chance to comment on a form before it is issued in its final format. It would test the form in the real world working conditions under which it would be used. In a sense, the pilot testing program would provide Congress with a window on the problems small businesses experience with federal paperwork.

I believe the reforms contained in S.391 are important and will force the agencies to reduce the paperwork they impose upon the public.

TESTIMONY OF SENATOR LLOYD BENTSEN
BEFORE THE SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES
COMMITTEE ON GOVERNMENT AFFAIRS

NOVEMBER 1, 1979

Mr. Chairman, I appreciate this opportunity to testify on S. 1411, the Paperwork and Red Tape Reduction Act of 1979. I commend you on your quick action on this important bill, which I cosponsored with you and Senator Danforth when it was introduced on June 26, 1979.

One of my main concerns in the Senate over the years has been to reduce the costly burden imposed on American businesses and consumers by unnecessary and excessive government paperwork and red tape. Excessive paperwork reduces business efficiency. It takes time from both clerical workers and top management that could be put to more productive uses. It threatens the very existence of small businesses, whose owners are diverted by complying with government paperwork requirements from the necessary tasks of producing goods and serving customers. It adds to costs and contributes to inflation. Its pervasiveness threatens to sap the very energy from our private enterprise system.

S. 1411 will help bring the Federal paperwork and red tape monster under control. It consolidates all responsibility for Federal paperwork under the Office of Management and Budget and establishes a policy based for the

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first time on the recognition that government paperwork and red tape imposes a significant cost on businesses and consumers and diverts resources from other productive uses.

There is one important provision of this bill which alone makes it worth its weight in gold -- the provision which would bring tax forms issued by the Internal Revenue Service under the provisions of the Federal Reports Act for the first time.

Every April, millions of Americans encounter first-hand the heavy burden of Federal paperwork when they come face-to-face with form 1040 and its many supplemental schedules. American businesses and farmers also face numerous tax forms, many of which have to be filed periodically throughout the year.

All in all, the General Accounting Office has found that 80 percent of the burden of Federal paperwork consists of tax forms.

Yet, this 80 percent of Federal paperwork lies outside the requirements of the Federal Reports Act. It is never reviewed by the Office of Management and Budget or by the GAO, in contrast to the forms issued by virtually every other Federal agency. It is beyond the control of Congress or the President. Even if the Internal Revenue Service had the best intentions towards reducing the burden and complexity of their forms, the overwhelming burden imposed on taxpayers

by IRS forms makes it imperative that they be reviewed by the OMB before being imposed on the American people.

This bill deserves the serious consideration, and support, of every member of the Senate who is concerned with reducing the cost of unnecessary and excessive government paperwork and red tape, because Federal paperwork has grown out of all reasonable proportion.

The latest figures from OBM and GAO show that Federal agencies currently impose more than 4,400 reporting and recordkeeping requirements on grant recipients, businesses subject to some form of Federal regulation, State and local governments and others who deal with the U.S. Government in one capacity or another. Complying with these requirements annually consumes an estimated 161 million manhours, the economic equivalent of a small army. According to the final report of The Commission of Federal Paperwork, "a substantial portion of this expense is unnecessary."

Last year, I asked the General Accounting Office to report to me on the nature and extent of Federal reporting and recordkeeping requirements affecting private industry. The GAO found that, according to agency estimates, businesses take about 69 million hours yearly to respond to more than 2,100 U.S. reporting requirements. Each of these reporting requirements, all of which have been approved by either OMB or GAO under the provisions of the Federal Reports Act, creates an average of ten separate forms -- and the staff at the GAO

reported finding one OMB-approved reporting requirement that actually created 90 separate forms.

At the hourly rate of $15, the figure used by the Paperwork Commission, the 69 million hours spent by businesses complying with U.S. Government paperwork requirements annually costs more than $1 billion.

The burden imposed by individual reporting requirements can be staggering. For example, the 4,160 radio stations in this country spend more than 18,000,000 hours per year (or an average of 4,330 hours each) complying with the FCC's Standard Broadcast and FM Station Program Logging Rules. The Department of Energy's forms used by petroleum wholesalers to report on all sales of petroleum products takes an estimated 864,000 hours each year. The Department of Labor's recordkeeping requirements under OSHA take an estimated half million hours annually.

Yet, as high as these numbers are, they probably grossly underestimate the burden of Federal reporting and recordkeeping requirements, largely because they are based on estimates made by the very agencies who impose them. Under the terms of the Federal Reports Act, government agencies must submit their plans for collecting information to either the OMB or GAO for approval. As part of the request for a clearance, agencies have to estimate the burden of the new requirements on those who must comply. Although some estimates

are thoroughly researched, many are sheer fabrications and bear no relationship to the actual compliance burden.

Furthermore, we have very little idea as to whether or not government agencies ever make use of the information they collect.

A rational solution to the problem of excessive government paperwork and red tape requires that we know the true burden of Federal reporting requirements and the actual uses that government agencies make of the accumulated information. To throw light on these concerns, I have asked the GAO to undertake a series of in-depth studies of specific reporting requirements of various Federal agencies. The GAO will determine what is the true burden of the selected reporting requirements and how the data is used. The first of these reports, which is tentatively scheduled for early next year, will look into the Department of Agriculture's reporting requirements under the Packers and Stockyards Act.

These reports will be coming to me every two or three months after the first is issued and will cover paperwork problems in such areas as transportation, pensions, energy, environmental protection, and taxes. Following each report, I plan to introduce legislation, based on the GAO recommendations, to cut out unnecessary paperwork and reduce the reporting and recordkeeping burden on American businesses. Last year, Congress enacted two paperwork reduction measures

I introduced, including an amendment to the HUD authorization bill requiring the FHA and VA to merge the forms used in their single-family housing programs. As a result of this amendment, I have learned that FHA and VA, as well as the Farmers Home Administration, are making progress on merging forms.

Another piece of evidence that the paperwork burden has been exploding uncontrollably is the recent growth of the government's paperwork catalog -- the Federal Register. In 1955, the total length of the Federal Register came to 10,000 pages. Fifteen years later, in 1970, its size had doubled, but the number of pages still amounted to only 20,000. By 1977, however, the number of pages had mushroomed to over 65,000, and the Federal Register is expected to reach 100,000 pages by 1980.

This rapid growth has compounded the problem of paperwork and red tape because government agencies that need or want the same kind of information have done little to coordinate their efforts. Far too often, businesses that have submitted information to one Federal agency have to turn around and submit the exact same data to another agency. There are even examples where the same data had to be submitted under different programs to the same agency, with a different form for each different program.

Here is a typical example of overlapping and duplicative government paperwork, taken from a recent report published by the U.S. League of Savings Associations. The League found that there are more than 800 separate reporting requirements that affect savings and loan associations in this country. These 800 reporting requirements are imposed by no less than 8 separate government or government-sponsored agencies. According to the Savings League study, the Federal Home Loan Bank Board has 156 reporting requirements; the Federal National Mortgage Association has 128; the Government National Mortgage Association has 25; the Federal Home Loan Mortgage Corporation has 58; the Farmers Home Administration has 40; the Veterans Administration has 149; the Treasury Department and IRS have 96; the Federal Housing Administration and the Department of Housing and Urban Development have 93; and other Federal agencies have 43.

In its study, the U.S. Savings League listed five main sources of excessive Federal paperwork:

- Seemingly endless demands for information by Congress, government agencies and consumer groups;
- Legislation passed by the Congress and regulation issued by agencies with little regard for cost and other impacts on the operations of associations;

- Multiple independent Federal, State, local and private agencies and institutions seeking information with little regard for duplication;
- Programs and policies established and administered in ways that require unproductive or excessive paperwork;
- Policies and practices which fail to distinguish between useful information and unnecessary paperwork, and an absence of limits on costs which may be imposed by Federal paperwork.

While these findings were developed from the experiences of the savings and loan industry, they have general applicability throughout the Federal Government. We have failed to limit the private sector costs of government paperwork. We have failed to insure that all information collected by the government is needed and useful. We have failed to coordinate agency information requests and to eliminate duplicative and overlapping reporting requirements. As a result, American businesses are burdened with unreasonable amounts of paperwork and red tape, at a high cost that is just passed on to consumers through higher prices.

During this period of skyrocketing inflation, Congress must act to eliminate government-mandated inefficiencies and costs.

S. 1411 recognizes that government paperwork imposes a cost on the private sector and uses resources that have to be balanced against other possible uses. The more of our nation's resources and energies that go into preparing government forms and complying with government reporting requirements, the less that can be devoted to satisfying consumer needs or expanding the productive capacity of our economy. We must eliminate excessive and unnecessary paperwork and red tape, and the "Paperwork and Red Tape Reduction Act of 1979" will be an important tool in the battle.

CITIZENS COMMITTEE ON PAPERWORK REDUCTION
1625 EYE STREET, N.W. • WASHINGTON, D C 20006 • (202) 659-6485

Statement of the Citizens Committee on Paperwork Reduction Before the Senate Governmental Affairs Committee Subcommittee on Federal Spending
November 1, 1979

The Citizens Committee on Paperwork Reduction is pleased to comment on the legislation S. 1141, currently pending before the subcommittee on federal spending of the Governmental Affairs Committee of the U.S. Senate.

The Citizens Committee on Paperwork Reduction was founded in 1978 by a group of interested members of the general public to oversee the recommendations of the now-defunct Commission on Federal Paperwork. The Commission was chaired by the Honorable Frank Horton of New York, the ranking member of the House Government Operations Committee.

Today the Citizens Committee is actively pushing for implementation of the remaining outstanding recommendations of the old Commission, development of state and local paperwork reduction groups (one was established in Michigan last week) and development of better and less burdensome information requests through its range of contacts in private enterprise, associations, organizations and governments.

Our committee consists of 43 trustees and associate trustees representing all parts of the American public. Together, we represent the small and large business sectors, the professionals,

state and local government, universities, non-profit organizations, health care, and various other groups. A list is attached.

The Citizens Committee is pleased to endorse the provisions of S. 1411, the Paperwork and Red Tape Reduction Act which you have introduced. It provides a needed overhaul of the 35-year-old Federal Reports Act which even at the time of passage was not considered the last word in paperwork control.

We believe that enactment of S. 1411 could improve the management of the Federal government's information-gathering apparatus, provide for better utilization of existing data, and, eventually slow, if not stop, the increasing paperwork requests made on the non-Federal sector.

We believe that a strengthening of the centralized paperwork management apparatus is essential to the development of paperwork reduction and paperwork control in the government.

The Office of Management and Budget, which has recently been upgrading its own paperwork management system, under the existing Federal Reports Act, is the logical place for this control and centralization to be placed. Several of our trustees have been dismayed over the years by the lack of control at OMB. We hope that OMB can continue to strengthen its management role, possibly as outlined in a new Executive Order.

The bill provides for an Office of Federal Information Management Policy in OMB which would be part of the executive office of the President. While we have not taken a position on this particular office, we believe that there needs to be a mandated strengthening of paperwork control in OMB.

As you know, OMB's paperwork control mechanism has never been a central function of any of the top management of the agency. A change is necessary. The Office of Federal Information Management Policy is one way to do this; another would be to establish a deputy director of the Office of Management and Budget, with appropriate staffing for paperwork and information management.

Second, the bill provides for the development of a Federal Information Locator System. We strongly support the development of the card catalogue of metadata, or data about data. It is one of the ways which can be utilized to reduce the burden of duplicative information requests. However, we would not want the subcommittee to believe that the establishment of FILS would solve the paperwork problem. We would be able to weed out duplication, (as has been shown by the prototype study just completed at OMB) but stronger utilization of an information locator system coupled with industry by industry or sector by sector analysis of the paperwork burden is essential if there is to be meaningful control.

Third, the bill provides for cooperation of agencies in the effort to reduce the burden of information request. This coupled with the sector analysis could provide real savings.

Except for tax forms and some social security forms, there are only 19 forms in general use by the Federal government which have over 500,000 responses per year. However, of the approximately 4500 general use forms, there is significant overlap in information requests.

To accomplish such interchanges, however, there will need to

more education of the various methods available to reduce government paperwork, establishment of working groups between agencies, and probably development of information management as one of the major areas of government. Today, there are various groups which are concerned with the transfer of information between agencies, some, such as FADPUG, (the Federal ADP Users Group), are supported by one agency or another. Others, such as AFFIRM, (the Association for Federal Information Resources Management), recieve no Federal support even though their membership is composed of federal and former federal employees.

The biggest savings in paperwork will come from better management,including stronger oversight at the Office of Mnagement and Budget, development of a workable information locator system, information management as a strengthened part of the executive branch personnel system, and finally, interagency transfers of ideas and information with less concern for bureaucratic turf.

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There are some specific changes which the Citizens Committee believes would strengthen the pending legislation:

First, there is no specific definition of "information" in the bill. You may wish to state that information is data collected form more than 10 organizations or individuals as provided in the Federal Reports Act "rule of 10." But, at the same time, this may provide that nine larger reports can be sent out requiring massive submissions of data that would not fall under the rule of ten, nor the forms clearance process as envisioned in the bill. Therefore, we believe that a definition for information should be broad enough to mean anything about the condition of the American body public.

Second, there has been constant discussion in the small business community over the past few years about the submission of data on a one-time basis with sharing between agencies. We believe that small business would be well served by a check-off form that provides that all information on a one-time annual submission could be shared between agencies. This probably would decrease paperwork on those organizations and businesses which are not unduly concerned about privacy or proprietary information.

Third, the authority to oversee the recommendations of the Commission on Federal Paperwork which Congress delegated to the Office of Management and Budget for two years should be continued. It technically expired last month. We believe that authority should be continued for at least another two years.

Fourth, we believe that the "senior official" should be defined as a member of the Senior Executive Service or higher.

AMERICAN CIVIL LIBERTIES UNION

Washington Office

October 30, 1979

The Honorable Abraham Ribicoff
Chairman, Committee on Governmental
Affairs
United States Senate
Washington, D.C. 20510

Attention: Marilyn Harris, Counsel

Dear Senator Ribicoff:

I am writing to offer some preliminary comments and questions of the American Civil Liberties Union on S. 1411, the "Paperwork and Redtape Reduction Act of 1979".

The bill has the laudable purpose of establishing "new information policies and management procedures. . . to eliminate needless paperwork and redtape and make the Federal Government an effective and efficient instrument in service to the American people" [Sec. 2(c)]. Unfortunately, several aspects of the proposal raise serious questions about dangers to individual privacy. For example, the Office of Federal Information Policy created by the bill would constitute a de facto permanent interagency task force aimed at ironing out problems encountered by agencies in the application of the federal Privacy Act, 5 U.S.C. § 552a. Under Section 3505 of the bill, the Administrator for Federal Information Management Policy is required to determine whether Federal agencies lack authority to collect necessary information "from business enterprises and other persons" and to report to Congress "describing legislative impediments to such information collection and citing reasons for eliminating them." This provision appears to set up a bureaucratic mechanism for expanding government information-gathering powers at the expense of individual privacy.

Other sections of the bill raise similar privacy questions. Section 3508, for example, empowers the Administrator to order agencies to share "information obtained from any person". To the extent that this authority is already provided in the Privacy Act, the section is superfluous; to the extent that

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it is not, the section is a dangerous expansion of the existing authority of federal agencies to disseminate personal information.

The Administrator's authority to approve agency "information collection activities" under Section 3509 also raises Privacy Act questions. Since the section does not provide for publication of proposed "collection activities" in the Federal Register, nor require a public comment period, the section appears to be inconsistent with the Privacy Act's requirement that the public be given notice and an opportunity to comment whenever a new information system or collection practice is under consideration by an agency. Another problem with the bill's information collection authority is the power it confers on the Administrator under Section 3513(2) to obtain "access to all information and records in [the] possession [of an agency] which the Administrator may determine to be necessary for the performance of the functions of the Office." To the extent that such records are identifiable with persons, this power is also objectionable from a privacy standpoint.

Our preliminary review of S. 1411 reveals two other actual or potential privacy problems. First, Section 3518 sets forth a series of conditions under which "information obtained by a federal agency from a person under this chapter may be released to another federal agency. Subsection (3) lists "consent", but does not require consent to be informed or written. Subsection (5)(A) lists "names, addresses and any related information necessary to the collection or compilation of survey data." It is not clear what may be published, when and why under this provision. Second, under Section 3604, the Administrator is required to "annotate through a coding system" any "data profile" which identifies a data element of a personal or proprietary nature." Does this mean that the Administrator is required to index all the personal records of federal agency files? If so, the requirement is both unworkable and unsound.

I would be happy to try to respond to any additional questions you may wish to address to the American Civil Liberties Union about S. 1411.

Yours sincerely,

John Shattuck
Director

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

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PAUL N. HOWARD, JR., *President* IVAL R. CIANCHETTE, *Senior Vice President* THOMAS E. DAILEY, *Vice President*
CLIFF MORTENSEN, *Treasurer* JAMES M. SPROUSE, *Executive Vice President* HUBERT BEATTY, *Executive Director*

November 1, 1979

The Honorable Lawton Chiles, Chairman
Subcommittee on Federal Spending Practices
and Open Government
Committee on Governmental Affairs
44 Capitol Hill Apartments
Washington, D. C. 20510

Dear Senator Chiles:

We appreciate the opportunity to support S.1411.

We request that the enclosed statement be made a part of the hearing record, including the appended statement which we very recently submitted to the Subcommittee on Oversight of Government Management.

Sincerely,

John C. Ellis
Assistant Executive Director

JCE:sb
enclosures

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The Associated General Contractors of America is pleased to offer strong support for S.1411, the Paperwork and Red Tape Reduction Act of 1979.

AGC testified just a few days ago, at oversight hearings before the Subcommittee on Oversight of Government Management, on the effectiveness of Executive Order 12044. Our statement there is pertinent here. A copy is attached and we ask that it be made a part of this hearing record.

S.1411 would, in our view, legislatively mandate that much of the best in E.O. 12044 be firmly established with the full blessing of Congress. This is needed to ensure that no Administration, including the present one, can undo the improvements that the Executive Order has initiated.

However, S.1411 is more than that. It goes beyond stabilizing some of the existing improvements and moves us forward to additional, clearly needed steps.

Statutory establishment of a specific Office of Federal Information Policy in the Office of Management and Budget is highly desirable. Senate approval of its Administrator would assure continued Congressional interest in effective management of the OFIP.

Control of federal information policy will not be firmly utilized unless the administering personnel have the authority that goes with being part of the White House. Proposals to put that control in the Administrative Conference are, in our view, totally misguided. OMB has the clout and, currently, the motivation to do the job well.

That leads to our single major negative comment on S.1411, which concerns Section 3511 (b). That Section would permit the OFIP Administrator to delegate back to individual agencies some of his powers.

If we lived in a perfect world, Section 3511 (b) would be a fine policy reflective of common sense. Such is not the case. Executive Order 12044 has been in existence for a year and a half. OMB reported on its implementation just last month and, for all their optimism, it is clear that even OMB is far from satisfied with the results so far.

The bureaucracy does not change quickly or easily. Regulatory/paperwork reform, of a kind that will serve the regulated public rather than the bureaucratic institution, cannot be expected on a "volunteer" basis. The bureaucracy will tend to seek the paths of least resistance--secrecy and authoritarianism.

We urge, therefore, that Section 3511 (b) be stricken from S.1411. It can always be added at a later time, when the bureaucracy has established a record that makes such a delegation of authority safe. We are a long way from that time today.

Section 3509 (a) (3) represents a giant step forward, by providing the "independent" agencies a way to exert their independence but only at the cost of a very deliberate process. We suggest that when they do "override" OFIP, they be required to publish a detailed explanation of the reasons for doing so. Thus they could exercise their independence and the Congress will have an opportunity to assess the merits of that action.

The Federal Information Locator System (Chapter 36 of S.1411) makes great good sense. A small start in this direction has already been initiated in the Executive Branch. With legislative impetus, it will grow faster, be subject to appropriate Congressional review, and will encompass the independent agencies.

In summary, AGC finds S.1411 a highly meritorious proposal. We urge the committee to report it favorably, with the few changes suggested above.

STATEMENT

SUBMITTED BY

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC.

TO THE

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

COMMITTEE ON GOVERNMENTAL AFFAIRS

OCTOBER 9, 1979

OVERSIGHT ON IMPLEMENTATION

OF

EXECUTIVE ORDER 12044

AGC is:

* More than 30,000 firms including 8,000 of America's leading general contracting firms responsible for the employment of 3,500,000-plus employees;

* 113 chapters nationwide;

* More than 80% of America's contract construction of commercial buildings, highways, industrial and municipal-utility facilities.

The Associated General Contractors of America welcomes this opportunity to comment on the effectiveness of President Carter's Executive Order 12044.

We commented, late in 1977 when E.O. 12044 was a proposed order, that we commended the spirit and substance of the proposal. We called it a "genuinely fresh breath of air." That view has not changed--it is still clear today that the White House supports a more open and participatory system of federal regulation. Without that kind of impetus from the top, regulatory reform in the bureaucracy cannot be expected.

Unfortunately, that impetus from the top is just the first step of many that are needed to reach the goal. OMB's September, 1979, progress report on E.O. 12044 indicates that appropriate and intelligent follow-up can be expected. Just as regulatory activities did not get out of hand overnight, effective regulatory reform cannot be expected overnight.

AGC responded to OMB's request for assessments of agency performance under E.O. 12044. For the record, that response is part of our testimony today. We found the Executive Order still holds great promise but agency compliance is far from adequate so far.

As a case in point, we will update those comments as they relate to the Office of Federal Contract Compliance Programs in the Department of Labor. On September 7, 1979, OFCCP published its proposed new paragraph 7q, an addition to 41 CRF 60-4.3(a), with the stated intent of "clarifying" contractors' requirements for the employment of women and minorities. Paragraph 7q says that construction contractors who are subject of OFCCP's regulations on the employment of minorities and women, are subject to those

requirements on all their construction projects. This means that any contractor who has one federal or federal-aid construction job anywhere is subject to the OFCCP regulations on all other work, everywhere in the country, regardless of whether the other jobs are public or private.

Failure to comply with OFCCP's rules leads, ultimately, to debarment from bidding on federal and federal-aid projects. In effect, construction firms are now faced with the possibility of being debarred from bidding on federal work if they should fail to meet OFCCP's requirements on any single private or public job anywhere.

Executive Order 12044 directs each agency to "achieve legislative goals effectively and efficiently" and the agencies "shall not impose unnecessary burdens on the economy, on individuals, on public or private organizations...". To achieve the objectives, regulations are to be developed through a process which ensures that the need for and purposes of the regulation are clearly established. Meaningful alternatives are to be considered and analyzed before the regulation is issued. Compliance costs, paperwork and other burdens on the public are to be minimized, and the public is to be given an opportunity to participate in the development of the rule.

The Department of Labor was given a "good progress" grade in OMB's September report. Let's look at how DOL treated the 7q regulation.

DOL announced that it would publish its first Semi-annual Agenda of Regulations Selected for Development and Review on October 31, 1978. It was actually published on January 26, 1979. DOL's second Semi-annual Agenda was to be out on August 31, 1979, but we have not seen it yet.

In the January 26 Agenda, DOL listed nine anticipated regulatory proposals in 41 CFR 60. The one that, presumably, covers 7q and offers little evidence of what to expect. It says, also, "New policies and procedures are being developed." It says, also, "A regulatory analysis is not required."

Implementation of the proposed 7q regulation would constitute a very significant restructuring of the federal compliance system for construction. The rule would extend OFCCP into areas where its authority is highly questionable. Untold costs would be imposed on the contractor to comply with the reams of reports and forms that would have to be developed and maintained to comply with the extended OFCCP jurisdiction. The rule would impose a major increase in costs and prices for the construction industry, and a corresponding cost increase for all of government construction procurement. The regulation would also result in legal uncertainties which will require resolution through litigation.

It is such regulatory excesses that E.O. 12044 was designed to avoid.

However, OFCCP decided a regulatory analysis was not needed on 7q, nor was it necessary to develop "a careful examination of alternative approaches." According to the Executive Order, OFCCP is required to provide "a succinct statement of the problem; a description of the major alternative ways of dealing with the problem that were considered by the agency, an analysis of the economic consequences of each of these alternatives and a detailed explanation of the reasons for choosing one alternative over the others." OFCCP even failed to articulate the problem which it is attempting to

clarify. OFCCP, directly contravening E.O. 12044, failed to analyze alternative approaches and ultimately failed to develop a rule that solves the (undefined) problem with a minimal detrimental impact on the industry.

As OMB stated in its September, 1979, report, "agencies are not doing an adequate job of determining when a regulatory analysis is required." We are most gratified to find that OMB recognizes this problem, and plans to see that it is remedied. At the same time, it is galling to note the specific failures of OFCCP and the inability of the government to take specific corrective action.

It is apparent that these regulatory excesses require corrective legislation.

It is our belief, however, that S. 262 and S. 755 do not go far enough to accomplish the purpose of regulatory reform.

You are well aware of the staggering increase in federal regulation. Your own studies, the reports of the Commission on Federal Paperwork, previous witnesses before these hearings - all have demonstrated the size of the monster we are fighting. It can not be brought to heel with mild measures.

This 96th Congress was being proclaimed "the oversight Congress" almost before it convened. Virtually all who were elected or reelected to this Congress during 1978 proclaimed "regulatory reform" and "control the bureaucrats" and "cut out the paperwork" as cardinal ambitions. S. 262 or S. 755 would be feeble fulfillment of such great ambitions. The AGC cannot believe that passage, and full implementation, would adequately deter the regulation explosion, and we believe you would find the electorate completely unsatisfied by such a cosmetic remedy.

Not that these bills are useless; we are happy to support statutory establishment of the initiatives taken by Presidents Ford and Carter. Certainly coverage of the independent agencies is a significant and very needed addition to those initiatives. Improvements in the administrative law judge system are well taken, too.

We must observe, however, that the process seems to promise a new bureaucracy by rocketing the Administration Conference from obscurity to very substantial authority. That authority, in our view, belongs where it now resides--in the Office of Management and Budget. OMB has the clout, and now apparently also has the motivation, to make reforms happen.

We are most impressed, however, by what the proposed legislation does not do, and the most glaring gap is the lack of attention to the Congress itself.

While regulatory excesses are bureaucratic phenomena, they have their origins in the Legislative Branch where the laws are born. The original problem is usually in the law. The Congress passes legislation that sets in motion the awful chain of events, without adequately weighing its own actions.

For example, take the Davis-Bacon Act of 1931. From a few paragraphs of rather innocuous sounding, and certainly well intentioned, legislation, there has emerged a sizeable bureaucracy generating great controversy to this day. Even the Secretary of Labor concedes that the law is not being administered as well as he would like. The General Accounting Office is convinced that the statute is simply not capable of good administration.

We know this is not the forum to bring up arguments for repeal of Davis-Bacon. We intend only to point to an example of a statute, of merciful brevity, of obvious good intent, that nonetheless has produced:

a) a body of regulations which continues to grow after 48 years,

b) a bureaucracy still unable, by its own admission, to adequately fulfill its stated mission, and

c) a paperwork burden which is among the greatest in existence - to the point where the agencies receiving the paper admit it is beyond their means to make any use of it.

For another example, consider the Employee Retirement Income Security Act of 1974 (ERISA). Here is a rather recent statute, also clearly well-intentioned, but so detailed that we could hope the law itself embodies the bulk of any needed regulations. Not so. Despite the great detail in the statute, ERISA has spawned exactly the same kind of problems as Davis-Bacon--growing regulations, a bureaucracy that cannot do its assigned job, and a staggering paperwork burden.

In both cases, and obviously many more could be cited, Congress undoubtedly did not intend the awesome results that followed. One must presume the Congress simply did not anticipate the full dimensions of its mandate. This is a basic problem, which must be addressed in any serious attempt to deal with regulatory excesses. The Congress needs a "handle" on what its actions will produce, a reasonably accurate estimate of the regulatory/paperwork burden any given statute will generate, and a means to correct the bureaucracy if it

exceeds reasonable limits.

This will not come any more easily than the bureaucracies' own house-cleaning, but it can be done.

We suggest that a regulatory/paperwork impact assessment be required on every bill the Congress passes, just as the Congress already requires an economic assessment of legislation prior to passage. The assessment can be done by the agency that will be responsible for carrying out the statute. It should not unduly burden the agencies to do this, because they will have to do it anyway when the law is enacted. A review of the agency assessment by the General Accounting Office might be useful.

For example, if the Davis-Bacon Act, or ERISA, were being considered today and the regulatory/paperwork impact assessment was in place - these bills would be referred to the Department of Labor as proposed legislation. DOL would be required to take a preliminary, but careful, look at the bills and estimate the regulatory/paperwork impact necessary to execute such a statute. Congress might want the General Accounting Office to review DOL's estimate - GAO is already in the business of auditing agency actions for the Congress.

Congress would then be able to make a considered judgement on whether the bill's objective is worth the estimated regulatory/paperwork cots. Congress could then, with reasonable accuracy, weigh the alternatives - scrap the bill, re-write it to reduce the inherent burdens, or pass it as proposed.

One additional control is needed to guard against gross errors in the regulatory/paperwork estimate. This can be done by making the agency estimate a benchmark trigger for congressional review. By including the agency estimate in the statute's legislative history,

and mandating in the statute a prompt oversight hearing if that estimate is exceeded by, say 10 percent, Congress would obtain an "emergency brake" to slow down the runaway bureaucracy.

Obviously, there are ways to tie this sort of control into "sunset" provisions - such as mandating a shortened "sunset" schedule when regulatory/paperwork excesses occur.

Mr. Chairman, we believe additions of this nature to S. 262 or S. 755 would provide the ammunition for both the legislative and the executive branches to finally deal with the problems of over-regulation.

July 30, 1979

Mr. Stanley E. Morris
Deputy Associate Director
Regulatory Policy and Reports
Management
Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Morris:

As a trade association representing the construction business management interests of over 8,000 general contracting firms and over 20,000 construction industry affiliate firms, we have frequent occasion to become involved in the federal regulatory process.

In preparing our response to your July 13 letter requesting an evaluation of improvements in the regulatory practices of agencies as a result of implementation of Executive Order 12044, we have reviewed our regulatory involvement with sixteen agencies.

Our review has determined that Executive Order 12044 held more promise than is actually being realized.

I offer the following observations from our review panel:

- "Many of the regulations currently being proposed and promulgated by the Department of Energy (DOE) are of an emergency nature which, therefore, permit shorter comment periods. This is understandable; however, there should be more flexibility on the part of DOE to consider comments which come in after the shortened deadline period.

  When comments received by DOE are analyzed as part of the printed text in the Federal Register, it appears to be more of a pro forma analysis than a true consideration of the comments' merits."

- "Opportunities to participate in the Office of Federal Contract Compliance Programs' (OFCCP) rulemaking have been reasonable; however, comment periods have been too short. Thirty days is not an adequate comment period.

  The rules for Women in Construction were published by OFCCP on April 7, 1978. To my knowledge, the OFCCP did not assess the economic impact of the regulation, nor did it consider alternative approaches to the issue of getting women into construction - more importantly, the OFCCP did not consult with other agencies and offices within the Department of Labor (DOL) to determine whether the DOL could successfully implement the OFCCP regulation without creating a conflict with other DOL regulations. OFCCP also did not determine whether the construction industry could comply with all DOL regulatory obligations within the timeframe established for compliance."

- "The Council on Wage and Price Stability (CWPS) has not published a semi-annual agenda. Very little has been done by CWPS in publishing its actions in periodicals or relevant journals.

  CWPS has done very little by way of assessing the negative impact of existing regulations."

- "Cost-benefit rations are almost non-existant or completely ignored in the Occupational Safety and Health Administration and Mine Safety and Health Administration proposed regulations. They are generally discounted with a flippant 'How do you place a value on human life?'"

- "The General Services Administration (GSA) reviewed its regulation requiring the listing of subcontractors with bids, and instead of making the final decision based on economics, decided to keep the listing requirement based on the number of comments received supporting the continuation versus the number of requests that it be dropped.

- In another case, the Department of Housing and Urban Development, to the best of our knowledge, did not assess our comments on an important

regulation dealing with payments for material stored off site."

- "We find both the Environmental Protection Agency (EPA) and the Farmers Home Administration (FmHA) openly providing drafts of proposed regulations early in the development process. Both agencies are receptive to formal and informal discussions of the proposed rules and a frank exchange of views usually prevails. EPA, however, does not provide realistic comment periods during the final stages of the process; sufficient and reasonable comment periods are provided during the drafting stage, but a short comment period is used on the final regulation even when the final regulation differs substantially from the draft.

  EPA does not appear to be concerned with assessing alternative approaches to major economic regulations. It claims that its regulations, pursuant to law, are health oriented and economic impact is not a major consideration."

The above observations are, admittedly, general in nature. A specific evaluation, however, of a recent proposed rule and its cavalier implementation of Executive Order 12044 should lend credence to the general observations and our determination that Executive Order 12044 is not being seriously pursued.

The Department of Transportation (DOT) issued proposed rules concerning "Participation by Minority Business Enterprises in Contracts and Programs Funded by the Department of Transportation" in May 17, [illegible] Federal Register. The substance of the regulation has been a public controversial one within the construction industry, the procurement community, the Congress, and the courts for approximately two years. Controversy has keyed around the cost of implementation of set-aside and other special procurement preference programs, the effect on competition of such programs, and the constitutionality of such programs. Such publicly acclaimed and acknowledged controversy can leave no doubt that any regulation dealing with the subject is a "significant regulation" within the criteria for definition of that term contained in Executive Order 12044.

Executive Order 12044 provides, in part, that:

"Meaningful alternatives are considered and analyzed

before the regulation is issued;" (Section 1[d])

"Before an agency proceeds to develop significant new regulations, the agency head shall have reviewed ....the alternative approaches to be explored..." (Section 2[b])

"The head of each agency...shall approve significant regulations before they are published for public comment in the Federal Register. At a minimum, this offical should determine that:

> ...(2) the direct and indirect effects of the regulation have been adequately considered; (3) alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen; ....(6) an estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation; ...(8) a plan for evaluating the regulation after issuance has been developed." (Section 2[d])

> "(2) agencies shall include in their public notice of proposed rules an explanation of the regulatory approach that has been selected or is favored and a short description of the other alternatives considered." (Section 3[6][2])

The seventeen page proposed DOT regulation required, among other things:

1) nine new contract clauses

2) three new forms

3) nine reports

4) two separate programs to be created by grantees - one a four component program, one an eight component program

5) two separate "documentation of reasonable effort" requirements - one with ten components - one with eleven components

6) a "maintenance of records" requirement with ten components

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7) the following all inclusive requirement: "bidder/offeror will submit such periodic reports and cooperate in any studies or surveys as may be required by the Department..."

8) the employment or designation by Grantees of MBE liaison officers and "adequate staffs" to administer the program

9) summarily waving competitive bidding principles in contract solicitation and contractor selection procedures.

Despite the patently obvious questions concerning compliance costs, paperwork and reporting burdens, and the effect on competition, the sum total of DOT's "compliance" with the above cited requirements of Executive Order 12044 was the following:

> "The necessity for monitoring the performance of contractors and recepients and for insuring that only eligible MBE's benefit from the program means that some recordkeeping and reporting requirements will be created. In the Department's view, the requirements contained in this proposed rule are the least burdensome ones consistent with the goals of the regulations, including MBE participation. Nevertheless, we welcome the comments of the public regarding alternative approaches which will result in significantly increased MBE involvement in DOT activities while creating lesser administrative requirements."

We believe that Executive Order 12044 holds great promise. Unfortunately, based on our review of agency implementation - particularly the cited DOT example - that may be all it holds at this point. It is certainly not holding the attention of the Department of Transportation.

Unless and until agencies treat Executive Order 12044 [illegible] a pro forma requirement, we will see no improvement in regulatory practice.

Sincerely,

HUBERT BEATTY
Executive Director

HB:jma

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TESTIMONY OF

GERALD L. HEGEL, CRM

PRESIDENT, ASSOCIATION OF RECORDS MANAGERS AND ADMINISTRATORS

before

SENATE SUBCOMMITTEE ON FEDERAL SPENDING PRATICES AND OPEN GOVERNMENT.

on

S. 1411

THE PAPERWORK AND REDTAPE REDUCTION ACT OF 1979

My name is Gerald L. Hegel. I represent the Association of Records Managers and Administrators (ARMA) as President of that organization.

ARMA is a non-profit association formed to promote interest in records and information management. It provides a forum for research and the exchange of ideas. Our goals are to foster professionalism, develop workable standards and practices, and to furnish a source of guidance for the approximately seven-thousand members we represent nationwide.

We are pleased to present testimony in support of S. 1411 the Paperwork and Redtape Reduction Act of 1979. We believe that this legislation is representative of a national trend toward reappraising the role of government and the effect of government regulations on the private sector. Our Association lauds the work being done by this Committee to address the serious problems we have encountered in attempting to manage the paperwork and reporting requirements promulgated by Federal Regulatory Agencies.

We believe that if an agency has the right to call for the creation and maintenance of records and information, it likewise has an obligation to provide meaningful retention periods to meet its requirements.

The issue of paperwork and records management is not a new one. In addition to periodic investigations, Congress has enacted a

myriad of legislative initiatives emphasizing one aspect or another of paperwork management. The Federal Reports Act of 1942, for example, attempted to establish oversight procedures, avoid duplicative information requests, and promote greater sharing of information among Federal Agencies.

Although the quality of recordkeeping and retention regulations has been increased through legislation, the quantity has increased much faster. A recent report on the cost of government regulations by Arthur Anderson & Company estimates that the incremental costs of recordkeeping and retention regulations amounts to millions of dollars annually for the private sector.

The Federal Paperwork Commission addressed the issue of statutory recordkeeping and reporting requirements and found that, not statutes, but agency rules and regulations comprised the bulk of the paperwork burden. For example, in the Occupational Safety and Health Act, there are five references to reports from employers, but the Commission identified more than 400 reporting and recordkeeping references in OSHA regulations. Bear in mind that OSHA is not an isolated example.

ARMA is in complete agreement with the statement of Congressman Horton, Chairman of the Federal Paperwork Commission, who said, "Information is a resource, not a free good. Like all resources, information is an asset to be managed, allocated efficiently, used wisely, and disposed of when it no longer serves a useful purpose."

Our Association represents records managers, and as records managers our perspective on the issues is confined to the cost and administration of private sector compliance. Although we are concerned

with related areas such as privacy protection and the structure of the proposed Office of Federal Information Management Policy, I will confine my remarks to those topics for which I have developed a measure of expertise.

As far as we are concerned, there has been and continues to be a tremendous need for an Office of Federal Information Management Policy. We are hopeful that the oversight responsibilities delegated to this Office will eliminate many of the problem issues we would like to address.

Greater attention should be given to the rulemaking procedures themselves. Each agency has developed many of its own internal procedures for formulating and promulgating regulations, as well as administrative procedures for hearing grievances. But, there is certainly room for improvement in all of these areas. I am sure I speak for many in the private sector when I say that we would welcome the assistance of the Administrator to ensure the adequacy of public comment before regulations are promulgated. Some Federal Regulatory Agencies have made binding rules through vehicles such as "memoranda of agreement." For instance, in the case of Reynolds Metals v. Rumsfeld, a U.S. District Court held that the "memorandum of agreement" between the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs which provided for the exchange of information (obtained from the private sector) was upheld despite the fact that it was not preceded by public hearings. The Court further found that information exchanged pursuant to this "memorandum of agreement" would not be invalid even though they did not comply with the requirement that its approval be obtained before data is transmitted from one Agency to another.

In my experience, there is very little an individual or business can do to effectively challenge the recordkeeping and retention requirements imposed by Regulatory Agencies.

We are hopeful that this legislation will clarity Congressional intent to ensure the adequacy of public comment and establish oversight and review procedures which are applicable to all Federal Regulatory Agencies. I would like to note, at this time, that the current language in S. 1411 which defines Federal and Independent Regulatory Agencies includes only 17 of the 73 Independent Agencies which issue recordkeeping and retention regulations.

Along these lines, we would like to see the Administrator establish minimum standards concerning the promulgation of regulations to include earlier public comment periods, uniform procedures for administrative review, and uniform rulemaking procedures providing adequate public participation and review by the Office of Federal Paperwork Management Policy.

Let me discuss a few of the specific compliance problems we have experienced. As I said earlier, we are hopeful that this legislation will eliminate many of the problems I mention but there are others that have not been addressed adequately, if at all.

Although the Paperwork and Redtape Reduction Act does address the issue of compliance costs, it does not mandate a cost/benefit analysis regarding reporting and recordkeeping regulations. I am not advocating cost accounting for each and every regulation, but I would like to stress our desire to include compliance cost as a major factor in evaluating the necessity of any further regulations. We are all aware that legislation to this effect has been proposed previously but was not enacted.

It is virtually impossible to determine the cost of completing federal paperwork with any accuracy. Recent studies addressing this issue, however, point out that while there has been a reduction in the number of reports submitted by Federal agencies to OMB under the Federal Reports Act, the burden of reporting, measured in man hours has actually increased[1] (see Table 1).

Table 1 - Federal Report Forms Cleared by OMB

	31 Oct 75	1 Mar 76	Change Oct-Mar 1976	30 June 76	Change Oct 75 June 76
Forms (Number)	5,827	5,655	-3%	5,002	-14%
Annual Responses (Millions)	437	446	+2%	421	-4%
Annual Manhours (Millions)	138	145	+5%	143	+4%

Source: OMB Inventory of Reports (Includes both repetitive and single-time forms)

Table one shows the number of reports required in the OMB inventory[1] and table 2 contains the tasks involved and OMB estimate of the manhours required/private sector for compliance.

Table 2 - Federal Report Forms in the OMB Inventory (June 30, 1977

Purpose Or Use	Forms Involved		Annual Estimated Hours Required to Complete Forms (000's)	
	Number	Percentage	Hours	Percentage
Statistical Survey	1,262	27	18,033	13
Applications	1,193	25	52,748	38
Program Evaluation	1,090	23	28,793	21
Other Management	658	15	13,749	10
Recordkeeping	249	5	12,561	9
Other	298	6	12,908	9
TOTALS	4,714	100	134,273	100

[1]Memorandum. Number OMB-161, Executive Office of the President, Office of Management and Budget, Information Office, July 23, 1976. Subject: Report on the President's program to reduce the burden of Federal Reporting (no official title).

How do these man-hours estimates translate into dollars? A recent article in Information and Records Management by Robert Austin[2] dealt with the cost of paperwork management. He found that the man-hours involved in reporting compliance adjusted by the typical 40% employee burden, would range from $6.50 to $12.00 per hour or $1,000 to 2,100 per business per month. These rates multiplied by the man-hours estimates in Table 2 project an annual private sector compliance cost of $814,000,000 to $1,626,000,000. And, needless to say, the cost of this paperwork burden is passed on to the public in the form of higher consumer prices. The Federal Paperwork Commission estimated that this maze all boils down to a combined $500 annually for every person in the U.S.

I wish that were all, but it's not. No cost equation is complete without the common denominator of retention and storage costs. Every company in the U.S. has "on site" and/or "off-site" space which it uses exclusively for storage and retention of records. Retention has become a major factor in computing cost - as well as a major problem for records managers. The cost of an off-site facility to handle 5,000 legal size cartons of records in Chicago was outlined in Information and Records Management. They found that the total cost for installation and one year's maintenance was in excess of $49,000. Storage costs which are incremental to recordkeeping compliance have increased dramatically over the years and it is not unusual to find an average company pays as much as $50,000 per year to store records needed to comply with all of the recordkeeping, retention and reporting requirements which affect their operation.

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[2] "Information and Records Management" Austin, Robert Vol. 13, No.2, February 1979

By far, the most frustrating and confusing aspect of recordkeeping is the often vague or ambiguous nature of the regulations. If the Administrator of the Office of Federal Information Management Policy could accomplish only one thing, in our opinion it would be to simplify and clarify the recordkeeping and retention period regulations. Most records managers do not have law degrees but it is doubtful that even with legal training we could fully understand what is required of our departments. The average citizen should be able to understand Federal regulations without specialized training.

A Lawyer's Brief by Business Laws, Inc.[3] entitled "Record Retention - The Lawyer's Role", outlined many of our interpretive problems. It stated, "There are many indirect legal requirements which affect records retention. For example, there is no express requirement under the Employee Retirement Income Security Act of 1974 requiring a company to maintain an elaborate system of information on all of their employees, but the Act does require the pension credits earned at one location be combined with credits earned at other locations so that an employee does not forfeit benefits unless there is a lengthy break in service. This legal requirement imposes an indirect recordkeeping requirement which did not exist before, because a company with multiple locations must now keep records of an employee's work at all locations to compute his pension benefits." There are hundreds of indirect recordkeeping requirements imposed by Federal rules and regulations which have become necessary to insure corporate compliance and adequate defense in case of suit or review.

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[3] Business Laws Inc., Hancode, W.A. Vol. 7, No. 25, 12/12/77

Aside from the legal ramifications of the regulations, is the problem of vague or nonexistant specifications for recordkeeping methods. Some agencies outline format and will accept only records or reports which conform to their standards. This has made the exchange of information, or the usage of one report to serve the requirements of two or more agencies almost impossible. Even if a report contains adequate information for several agencies we are often required to submit separate reports and even retain separate records in compliance with format standards.

Vagueness and ambiguity is a characteristic of existing retention requirements as well. It is almost impossible for us to formulate precise retention periods because of the nature of these regulations.

Once again, we believe that if an agency has the right to call for the creation and maintenance of records and information it likewise has an obligation to provide meaningful retention periods to meet its requirements.

A prefunctory scan of the Code of Federal Regulations will illustrate my point. Out of 1364 direct record retention requirements outlined in the Code, 342 do not list a specific retention requirement. In other words one fourth of all recordkeeping requirements do not include retention periods. Often retention periods are stated as "indefinite" or "not specified", many are stated in such a manner as to necessitate legal interpretation. For example in CFR Title 7, Agriculture, the Farmers Home Administration state a retention period as, "Until summarized and reflected in the agency's official records and

until the requirements of State and local laws and regulations are met". Number of years after this point not specified. Title 50,CFR, Wildlife and Fisheries, in §21.25(c)(4), lists a retention period as, "The buyer shall retain the Form 3-186 on file for the duration of his possession of such birds or eggs or progeny or eggs thereof". The latter example is somewhat amusing, but illustrates the kinds of problems records managers encounter in determining retention periods.

It is inconceivable that we cannot assess a definite retention period to Government required records.

Because retention periods are unspecified or vague and difficult to determine, we are put in the position of having to keep too many records for too long. Records managers, trying to balance the cost of retention against civil and criminal liabilities contained in many statutes have a difficult decision to make. The risks of premature records destruction are too great to offset the tremendous cost and personnel burden they reflect.

The "Guide to Federal Records Retention Requirements", an annual compilation of retention specifications published by the Federal Register, attempts to make sense of all of this. Unfortunately, this guide does nothing but reprint or reference the Federal regulations which address records retention. Therefore, if the regulation itself is vague, there is no source of clarification. At the present time there is no authoritative publication of retention regulations which does not include a disclaimer.

Exhibits 1 through 6 contain working and definitions which we feel will clarify the points we have discussed.

In summary, we recommend consideration of the following suggestions:

1. To extend coverage of this Act to all Federal and Independent Regulatory agencies. No agent of the Government should be exempt from this responsibility.
2. To clarify Congressional intent to insure the adequacy of early public comment and involvement in the promulgation of regulations;
3. To compel the Administrator and Federal agencies to evaluate all subsequent recordkeeping and/or retention requirements on the basis of compliance costs; considering the indirect effect of these regulations;
4. To mandate that all future recordkeeping requirements contain specific retention periods, and;
5. That the Administrator, utilizing the newly established "Federal Information Locator System" make available to the public an authoritative register of all public-use reports, recordkeeping requirements and retention periods on at least an annual basis without a disclaimer.

EXHIBIT 1

Amendment to S.1411 -- Offered by:_____

Sec. 3501. Information for Federal Agencies

On page 4, line 14 after the word "public", insert the following:

"Federal Agencies requiring that information be retained by business enterprises, State and local governments, and other persons, subject to review or periodic audit must state all such regulations including time periods, clearly and specifically."

EXHIBIT 2

Amendment to S.1411 -- Offered by:_____

Sec. 3502. DEFINITIONS

On page 6, line 6, after "Commission;" insert the following:

ACTION
Administrative Conference of the United States
Advisory Commission on Intergovernmental Relations
American Battle Monuments Commission
Appalachian Regional Commission
Arms Control and Disarmament Agency, United States
Board for International Broadcasting
Canal Zone Government
Commission on Civil Rights
Commission of Fine Arts
Board of Architectural Consultants for Georgetown
Community Services Administration
Delaware River Basin Commission
Export-Import Bank of the United States
Farm Credit Administration
Federal Emergency Management Agency
Federal Home Loan Mortgage Corporation
National Neighborhood Reinvestment Corporation
Federal Labor Relations Authority
Federal Mediation and Conciliation Service
Federal Mine Safety and Health Review Commission
Foreign Claims Settlement Commission of the United States
General Services Administration
Inter-American Foundation
International Communication Agency
International Trade Commission, United States
Office of Rail Public Counsel
Merit Systems Protection Board

EXHIBIT 2 (continued)

National Aeronautics and Space Administration
National Capital Planning Commission
National Credit Union Administration
National Foundation on the Arts and the Humanities
  Federal Council on the Arts and the Humanities
  National Endowment for the Arts
  National Endowment for the Humanities
National Labor Relations Board
National Mediation Board
  National Railroad Adjustment Board
National Science Foundation
National Transportation Safety Board
Office of Personnel Management
Overseas Private Investment Corporation
Panama Canal Company
Pennsylvania Avenue Development Corporation
Postal Service, United States
Railroad Retirement Board
Regulatory Council
Selective Service System
Small Business Administration
Smithsonian Institution
Susquehanna River Basin Commission
Tennessee Valley Authority
United States Arms Control and Disarmament Agency
United States International Trade Commission
United States Postal Service
Veterans Administration
Water Resources Council

Note: These Independent Regulatory Agencies are those omitted from the current definition section.

EXHIBIT 3

Amendment to S.1411 -- Offered by:_____

On page 7, line 6 after the ";" insert the following new subsections and renumber following subsections accordingly:

"(7) 'record keeping requirement' means a requirement imposed by a Federal agency on 10 or more persons outside the Federal government to maintain records subject to request or periodic audit;

(8) 'record retention' means a requirement imposed by a Federal agency on 10 or more persons outside the Federal government to maintain records subject to request or periodic audit for a specific period of time."

EXHIBIT 4

Amendment to S.1411 -- Offered by:_____

Beginning on page 8, line 5, and thereafter wherever it occurs following the words "information management" insert ", records keeping and retention".

After the term "recordkeeping" wherever it occurs, insert the words, "and records retention".

EXHIBIT 5

Amendment to S.1411 -- Offered by:_____

Authority and functions of Administrator.

On page 10, line 14 after the ".", insert the following:

"(e) the agency has systematically inventoried and evaluated all recordkeeping requirements to ensure that such requirements are necessary for the information resource needs of the Federal agency;

(f) that each agency has reviewed its record retention requirements to ensure that they include specific time periods for all records which that agency requires to be kept by any State or local government, business, or person."

EXHIBIT 6

Amendment to S.1411 -- Offered by:_____

Authority and Function of Administrator

On page 11, line 10, omit the "." and insert the following new subsection:

"(j) The Administrator shall require each Federal agency to clearly and specifically list and publish all recordkeeping and record retention requirements on an annual basis."

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Founded in 1942

1001 Connecticut Avenue, N.W., Suite 925, Washington, D.C. 20036 • (202) 331-1915

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Vice President Legislation
National Small Business Association

October 31, 1979

Honorable Lawton Chiles
Chairman
Subcommittee on Federal Spending Practices
and Open Government
Senate Committee on Governmental Affairs
Washington, D.C. 20510

Dear Senator Chiles:

Attached is our statement on your S.1411. We appreciate your interest in improved paperwork control and that of your colleagues who co-sponsor the bill.

We would appreciate the statement being printed as a part of the hearing record.

I would be remiss if I did not state our gratitude for the assistance given us by Bob Coakley and Dick Grosse.

Respectfully,

David M. Marsh

David M. Marsh

Enclosure
DMM/bc

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BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

1001 Connecticut Avenue, N.W., Suite 925, Washington, D.C. 20036 • (202) 331-1915

STATEMENT OF
BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS
BEFORE THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES
AND OPEN GOVERNMENT
NOVEMBER 1, 1979

We appreciate the opportunity to submit this statement on your S. 1411, the "Paperwork and Redtape Reduction Act of 1979." Basically, we view the bill as constructive and favor its enactment with a few changes to be discussed later.

Historical Purpose of the Council - Paperwork Reduction

In 1942 Congress legislated the Federal Reports Act as a procedure for independent review of federal information-collection programs. To provide knowledgeable input in the review process under the Act, businessmen promptly created the Business Advisory Council.

Financed entirely by business, BACFR works with the Office of Management and Budget and the General Accounting Office on forms reviewed under their respective jurisdictions. BACFR is also working directly with government officials in the various Departments and Agencies. Advice and counsel to OMB, GAO, and other government agencies on reporting forms and programs is performed primarily by business representatives who are selected - frequently in consultation with appropriate trade associations - on the basis of their experience and knowledge of the reporting, record-keeping, and statistical problems involved in the specific proposal.

Such counsel may be provided by written comment or by face-to-face discussion during a meeting or hearing.

Each year, to help industry, government, and taxpayers, BACFR concentrated its efforts on the three R's: reporting, recordkeeping and regulation. Specifically, BACFR is recognized as an organization with a record of accomplishment in its work:

* To improve reporting forms, with emphasis on reporting burden and reasonableness of the information program.
* To increase the meaningfulness and quality of government data-collection programs.
* To simplify recordkeeping requirements made necessary by reporting and regulatory programs.
* To eliminate or consolidate data requests for information available from other sources, both public and private.
* To monitor how government uses the information being collected.

We believe enactment of S. 1411 is imperative and stand ready to be of assistance.

Suggestions Regarding S. 1411

The Council's "Recommendations for Paperwork Management" contain principles for improvement of organization, management and control of federal information activities. These recommendations have been favorably received by a wide range of business and government leaders knowledgeable in the area of federal reports.

We are particularly pleased to note that our recommendations and the provisions of S. 1411 in large part are consistent.

Attached are suggestions on various sections in the bill. In addition, we would like to comment on the following major provisions:

1. We commend the establishment within OMB of an Office of Federal Information Management Policy (Sec.3503). We believe that federal information management policy has in the last several years been the stepchild of OMB and, indeed, the entire federal government. Reports clearance and statistical policy functions were up at the third tier organizational level in the Bureau of the Budget. Today it is at the fourth tier. Furthermore, the unit has consistently been undermanned. Only by statute can this vital function receive the authority, organizational stature and resources necessary to accomplish its vital task. There is no question that the reports review and management functions belong in the Office of Management and Budget as it is the governments' central agency responsible for management.
2. We applaud the mandate (Sec.3512) that the Administrator consult persons outside government in the development of policies, rules, etc. We wonder why officials other than the Administrator may be designated to secure such consultation with respect to significant changes to policies, rules, etc.
3. Based on our strong feeling that all information management authority should be located in OMB we favor return to that office of the Office of Federal Statistical Policy and Standards (Sec.102(a)).
4. To carry out the philosophy that 100% of federal reporting requirements, not just 25%, should be subject to central review, we support the revision of the definition of "Federal agency" to include all agencies. In the absence of such a provision,

the chance of collection of duplicative and unduly burdensome, not to mention meaningless, data is infinitely greater. One must in candor recognize the nature of independent regulatory agencies. Therefore, we believe they should be permitted to override OMB disapproval, provided that action is performed in a "public" manner, such as through hearings or action of the agencies' Commissioners or Board, with reasons published in the FEDERAL REGISTER (see Sec.3509(a)(3)). We are encouraged the Internal Revenue Service has contracted for a long-range tax forms simplification study. As the study progresses, OMB should consider the findings. We must also realistically realize there are some instances where expedited clearance is appropriate.

5. The sections relating to availability of information between agencies (Secs. 3508 and 3518) is a shorter treatment than the bill drafted by the OMB Federal Statistical System Project, "Confidentiality of Federal Statistical Records Act." Perhaps that draft could be used as a model for such provisions, to be considered at a later date as separate legislation.

6. We believe it is inconsistent to provide for central reports management and clearance and then allow delegation to agencies of the Administrator's power to approve proposed information collection requests (Sec.3511(b)). Such a blanket delegation would, we believe, fragment information control and not be in the public interest. Furthermore, there is a practical and human tendency for an agency clearance officer to respect the information wishes of officials within his agency. We do not favor a blanket delegation but could well accept a delegation with respect to forms that have an estimated burden of one hour

or less. If there is to be any delegation, it should be carried out under stringent OMB criteria and with provision for GAO oversight and audit regarding agency capability to undertake such a responsibility. There should also be adequate opportunity for public participation in the development of information programs at the agency level or at OMB. Lack of adequate time for comment has been a serious problem. Without the views of affected respondents information collected is overly burdensome and less meaningful. See our attached comment on Section 3507. In any event, we vigorously urge that final accountability rest with OMB.

7. Our views on delegation set forth above in no way affect our enthusiasm for improving and upgrading individual agency information management operations. In this connection there are constructive suggestions in the recent reports of the General Accounting Office, "Protecting The Public From Unnecessary Federal Paperwork: Does the Control Process Work?" and the Office of Management and Budget, "Paperwork and Red Tape: - New Perspectives - New Directions." Further emphasis on agency management and planning is expected to be a part of the forthcoming Executive Order and revision of regulations in OMB Circular A-40. Such improvements were also advocated by the Commission on Federal Paperwork. They are implicit in subsection 3503(c). If agencies do a thorough and effective job of internal evaluation of their information proposals, including adequate consultation with affected respondents, the workload of OMB should be considerably lessened.

8. In the interest of avoiding unnecessary duplication the Council views as constructive the establishment in OMB of an information locator system. We understand the recent test by six agencies produced mixed results, but the final report has not been issued. A further, more widespread test of various systems should be undertaken to be sure of the cost effectiveness of each possible system.

To recapitulate, we favor:

- Recombining the reports clearance and information management function at a much higher level and with adequate personnel, in the Office of Management and Budget.
- Continuing development of an information locator system.
- Including all agencies in the form review process, with a "public" veto procedure for regulatory agencies.
- Maximum opportunity for public participation in the form development and review process, both at the agency level and at OMB.
- Final accountability for form approval in OMB.

The Board of Governors and members of the Council wish to express appreciation for the interest in this subject shown by you and your colleagues who co-sponsored this beneficial legislation. We also thank you for your work to assure compliance with Senate Rule 29.5.

Attachment

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

1001 Connecticut Avenue, N.W., Suite 925, Washington, D.C. 20036 • (202) 331-1915

ATTACHMENT TO STATEMENT ON S.1411
NOVEMBER 1, 1979

Section	Comment
2(b)(3)	An excellent statement of the benefits of public participation. A minor change in language might provide more emphasis, such as, "...must be allowed, and should be encouraged, to make suggestions..."
	Title I, Sec. 101(a) Relating to Title 44, Chapter 35,
3502(5)	Inclusion of recordkeeping requirements is a much needed addition to information management. Requests for information which are oral or by personal visit should be covered.
3502(6)	Mention of telephone requests and visits is necessary, since these may be used to evade clearance procedures.
3502(7)	To give additional emphasis to recordkeeping, suggest adding to "...collected by a Federal agency" "and to establish and maintain records relating to such information;"
3502(8)	Prefer "including" to "particularly", since ability to use information depends less on processing capability than on other factors, such as competent analysts.
3504(a)	Each "Head of Agency" is considered preferable to "each agency" in order to place responsibility personally on the shoulders of the top individual.

Section	Comment
3504(c)(1)	We are heartily in accord with review provision.
3504(c)(2)(A)	Specifying a "senior official" is laudable. "Senior accountable official" might provide even more emphasis.
3504(c)(2)(B)	After an agency "has...reviewed its information resources" (not defined), the question arises as to what actions should then be taken. It could be added that "...resources and taken the necessary steps to correct any imbalances and deficiencies."
3504(c)(3)	It is difficult to understand this provision. We believe it should be clarified or deleted.
3504(d)	Responsibility to plan "storage" might conflict with a GSA (Archives) function.
3505	"If, during an investigation or hearing...": if a principal function of the Administrator is to determine whether a Federal agency needs information and lacks the authority to collect it, it would seem appropriate to cover this subject as a separate responsibility and not deal with it solely as a consequence of a decision concerning the designation of a central collection agency.
3507	Rather than make it optional that the Administrator "may determine", and "may give", it would be preferable that the Administrator "shall determine" and "shall give". The provision for giving "interested persons an opportunity to be heard" is a very important one. We would hope that it would be liberally applied. We suggest that a minimum of

Section	Comment
3507 (cont.)	45 days be allowed, after FEDERAL REGISTER notice, for submission of statements in writing.
3508	This section relates to confidentiality and the sharing of information which are more explicitly dealt with in the Administration's proposed confidentiality act. Since this subject is controversial and arouses much emotion, it might be preferable to bypass it in this legislation and consider it separately later.
3509(a)(1)	The advance steps of the agency should include consultation with affected parties. In this manner the agency may get the benefit of any constructive suggestions. A stronger provision would be a separate subparagraph (2) calling for consultation with affected parties. Present subparagraphs (2) and (3) would be redesignated (3) and (4).
3509(a)(3)	Overriding by a majority vote rather than by two-thirds would seem more practical and be adequate to express the conviction of a regulatory agency.
3509(b)	"...(the Director of the Office of Management and Budget)..." should be changed to "...(the Director of the Office of Management and Budget or the General Accounting Office)..."
3511(b)	Authority to delegate appears questionable without spelling out criteria indicating capability of the agency to meet such a responsibility. The criteria should be tight and should include in the agency's

Section	Comment
3511(b) (cont.)	standards procedures a provision for public consultation on all reporting proposals. OMB should retain final approval authority.
3512	It is not readily apparent why a distinction is made between the Administrator's actions in the development of policies versus his actions relating to significant changes thereto. In the first instance the Administrator consults with others, while in the second he may designate others to perform the task to carry out his responsibilities. We do not fully understand the reason for this distinction.
3517(b)	For explicitness suggest that "in the FEDERAL REGISTER" be added to "...and that public notice..."
3518	Same comment as for Section 3508.
3519	If delegation authority in Sec. 3511(b) remains, expression "or under delegation pursuant to Sec. 3511(b)" should be added to "approved by the Administrator under the provisions of this chapter." Thus, where authority had been delegated, the same penalty for noncompliance would apply.

Title II, Sec. 201, Relating to Title 44, Chapter 36,

3601(9)	"Intra-agency" report in normal usage would also include internal reports of an agency, i.e., reports prepared from reporting requirements generated by an agency and imposed on units of its headquarters or its field establishment. To avoid confusion a statement that such internal reports are excluded might be desirable.

Section	Comment
3602(c)	Add as (6) or as (5) and renumber (5) and (6): "As a tool to question the need for basic data in the file", since some data profiles may not be needed or may be obsolete.

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AEROSPACE INDUSTRIES ASSOCIATION OF AMERICA, INC.

1725 DE SALES STREET, N.W., WASHINGTON, D. C. 20036 TEL 347-2315

OFFICE OF THE PRESIDENT

November 29, 1979

The Honorable Lawton Chiles
Chairman
Subcommittee on Federal Spending Practices
and Open Government
Committee on Governmental Affairs
United States Senate
44 Capitol Hill Apartments
Washington, D. C. 20510

Dear Mr. Chairman:

On behalf of the nation's major producers of aircraft, spacecraft, missiles and related components, equipment and services, the Aerospace Industries Association of America, Inc. appreciates the opportunity to express its views on the proposed "Paperwork and Redtape Reduction Act of 1979," S. 1411.

Throughout its history this Association has been concerned with the proliferation of paperwork involved in dealing with the government. However, despite our active participation with our government counterparts to simplify regulations, related management systems and attendant paperwork, the procurement reporting and record-keeping requirements have become increasingly sophisticated, complex and costly. Renewed efforts are called for. Accordingly, we support S. 1411 as a means of reducing significantly the mutual burdens of paperwork and related costs in the procurement process.

AIA has consistently endorsed the principles of the "Federal Reports Act of 1942" and the implementing practices contained in OMB Circular A-40, and has prepared and submitted studies to the Office of Federal Procurement Policy and the recent Commission on Federal Paperwork. We are pleased that certain of the recommendations which we have made through the years are contained, in principle, in the proposed legislation.

Of particular importance to us is the provision in Sec. 3512 requiring consultation with persons outside the government with respect to development of policies, rules, regulations, procedures and forms. It is through this process that the greatest reductions in the paperwork burden will be accomplished.

Secondly, in view of our long-held belief that all federal reporting requirements and attendant paperwork should be subject to a centralized review, we support the definition of a "Federal Agency" as including all agencies, as defined in Sec. 3205. Also supportive of our views is the delineation of responsibilities of the Administrator as contained in Sec. 3504. This broad-based participation throughout the government is statutory recognition of the importance and pervasiveness of excessive (and costly) paperwork and the necessity for achieving significant reductions.

Another long-standing recommendation of the Association has been to strengthen the effectiveness of the Office of Federal Statistical Policy and Standards. We are pleased to note that under Sec. 102(a), "Delegation of Related Functions," provision is made for that office to be located in the Office of Management and Budget.

Through its committee structure, this Association has followed closely the development of the Federal Information Locator System, as conceived by the Office of the Comptroller of the Department of Defense. While we support the concept of a government-wide system, we suggest that this and other potential approaches be thoroughly evaluated from the standpoint of cost effectiveness before the final selection of such a system.

In summary, AIA supports, in particular, the sections of S. 1411 which provide for:

- Maximum opportunity for public participation in the development and review process for forms and reports, at both the agency and OMB level.
- Inclusion of all agencies in the form and report review process, with a "public veto" procedure for the regulatory agencies.
- Final form and report approval at the OMB level.
- Recombining the reports clearance and information management function at a much higher level and provision of adequate personnel therefor in the Office of Management and Budget.

Thank you for the opportunity to comment upon this proposed legislation. We hope our comments can be included in your hearing record. If AIA or any of our member companies can be of further assistance, please call on us.

Yours very truly,

Karl G. Harr, Jr.

NATIONAL ASSOCIATION OF MANUFACTURERS

EUGENE J. HARDY
Senior Vice President

November 6, 1979

The Honorable Lawton M. Chiles, Jr.
Chairman
Subcommittee on Federal Spending Practices
and Open Government
Committee on Governmental Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The National Association of Manufacturers, representing over 12,000 members who produce over three-fourths of the nation's manufacturing output, wishes to express its support of your bill, S. 1411, the "Paperwork and Redtape Reduction Act of 1979." The NAM notes that your subcommittee held a hearing on this important bill on November 1 and heard testimony from Federal officials. We ask that this letter be included in the official hearing record.

The NAM has often testified and spoken publicly on the heavy burden imposed by Federal paperwork and regulatory requirements. Therefore, there is no need for us to reiterate here the overwhelming evidence of the negative effects on the nation's economy.

We wish to associate ourselves with the views of the Business Advisory Council on Federal Reports of which the NAM is a founding member and of which I serve as Vice Chairman. The BACFR has submitted a statement dated November 1, 1979, supporting S. 1411, including some suggestions for change. We endorse these comments.

We look forward to working with you and other members of the Senate on S. 1411 and hope that it can become law during the 96th Congress.

Sincerely,

EJH:ss

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